

*AN OMNIBUS CRIMINAL AND TRAFFIC ORDINANCE TO ENACT NEW OFFENSES AND TRAFFIC PROVISIONS, TO AMEND VARIOUS CRIMINAL AND TRAFFIC PROVISIONS CONSISTENT WITH RECENT CHANGES IN STATE LAWS, AND REPEALING CERTAIN OFFENSES.*

BE IT ORDAINED by the Board of Aldermen of the City of Lamar, Missouri, as follows:

**Section 1. Fire lanes—Establishment, violations.**

The city administrator and the fire chief are authorized to jointly establish fire lanes. The city administrator and the fire chief are authorized to jointly establish fire lanes in accordance with the fire prevention code that is adopted by the city. An area designated as a fire lane shall be visibly indicated by signs or curb line painting, or both. Either red or yellow paint shall be used for curb line painting. Once established with proper signage and/or curb line painting, no person shall stand or park any vehicle upon any portion of the area designated as a fire lane. Nothing herein shall apply to any police, fire or emergency medical vehicle.

**Section 2. Unauthorized presence after dark—Private Property.**

1. The unauthorized presence on private property, including public parking areas and the real estate surrounding business buildings, after dark and during hours when the business establishment located on the property in question is not open to the public, is hereby deemed unlawful and the refusal of any person to remove himself or herself from said areas immediately upon the request of any person or police officer whose general duties require that he or she protect the personal property and improvements located upon said real estate, is hereby declared to be an offense under this section.

2. For purposes of this section, *after dark* means the time period beginning thirty (30) minutes after sunset and ending thirty (30) minutes before sunrise.

**Section 3. Operation of dangerous vehicle.**

(a) It shall be unlawful for any person to drive, own or operate a vehicle which is driven or towed or hauled over the streets of the city which is so located or constructed as to cause delay, accident or injury to other vehicles or users of the public roadways of the city.

(b) No person shall operate a vehicle, and no owner shall suffer any person to operate a vehicle, within the city that is not equipped and maintained in accordance with the standards required for state vehicle inspections, as set forth in 11 C.S.R. 50-2.150 through 50-2.330, and as may be hereafter amended.

**Section 4. Lights on motorcycles and motorized bicycles.**

It shall be unlawful for any person to operate a motorcycle or motorized bicycle within the city unless such motorcycle or motorized bicycle is equipped with a light on the front thereof and the light is burning at all times that the motorcycle or motorized bicycle is in operation.

**Section 5. Vehicles and property subject to impoundment.**

A. Any police officer is hereby authorized to remove a vehicle or other personal property to the nearest garage or other place designated by the city under the circumstances enumerated in this section:

(1) When any vehicle upon a street is so disabled as to constitute an obstruction to traffic and the person in charge of the vehicle is, by reason of physical injury or condition, incapacitated to such an extent as to be unable to provide for its custody or removal.

(2) When any vehicle or other personal property is parked illegally or placed in such manner as to constitute a hazard or obstruction to the movement of traffic and when a traffic summons has been affixed to the vehicle or presented to the owner or operator.

(3) When a vehicle is parked on the streets in the same place continuously for 48 hours or if it left unattended on an interstate highway for a period in excess of 10 hours and a summons has been affixed to the vehicle or presented to the owner or operator.

(4) When the driver of any vehicle is taken into custody by the police department or other peace officer and such vehicle would thereby be left unattended upon a street or highway.

(5) When any vehicle is found to be driven or moved on a street or highway which is in such unsafe condition as to endanger any person or property and a summons has been presented to the owner or operator or affixed to the vehicle.

(6) When any vehicle is left unattended for 48 hours on private property or upon an area developed as an off-street parking facility without the consent of the owner, lessee or person in charge of any such property or facility, and upon complaint to the police department by the owner, lessee or person in charge or possession of such property or facility, and a summons has been presented to the owner or operator or affixed to the vehicle.

(7) When any vehicle is found, which the police have reasonable grounds to believe has been involved in an accident.

(8) When any vehicle is found on the street, and the driver, owner or person in charge of such vehicle, while driving or in charge of such vehicle or while such vehicle was parked or stopped, has received a summons to answer to a charge against him or her for violation of a city ordinance, and such driver, owner or person in charge has failed to appear and answer to such charge within the specified time.

(9) When any vehicle or personal property is directly interfering with the maintenance and care or the emergency use of the streets by any department of the city.

(10) When any vehicle is parked on the streets or any public place without valid license plates or with license plates reported stolen and when a traffic summons has been affixed to the vehicle or presented to the owner or operator.

(11) When a stolen motor vehicle or other personal property is found on a public street or private property.

(12) When removal is necessary in the interest of public safety because of fire, flood, storm or other emergency.

B. Any vehicle found to be subject to the provisions of this section may be removed by a service station, towing operator, salvage dealer or motor vehicle repair shop to a place of safety upon authorization of a police officer.

**Section 6. Time limit for parking large trucks, boats, motor homes, mobile homes, campers and trailers.**

No person shall park a tractor-trailer unit, semi-truck, semi-trailer, boat, boat trailer, cattle trailer, horse trailer, utility trailer, either open or closed, boxed trailer, motor home, mobile home or camper on any street for more than 72 consecutive hours.

**Section 7. Text messaging and using a hand-held mobile device while operating a motor vehicle prohibited, when — exceptions — definitions — violation, penalty.**

1. Except as otherwise provided in this section, no person operating a moving motor vehicle upon public roadways within the city shall, by means of a hand-held electronic wireless communications device, send, read or write a text message or electronic message.

2. Except as otherwise provided in this section, no person shall operate a commercial motor vehicle while using a hand-held mobile telephone.

3. Except as otherwise provided in this section, no person shall operate a commercial motor vehicle while using a wireless communications device to send, read or write a text message or electronic message.

4. The provisions of subsection 1 through subsection 3 of this section shall not apply to a person operating:

(1) An authorized emergency vehicle; or

(2) A moving motor vehicle while using a hand-held electronic wireless communications device to:

(a) Report illegal activity;

(b) Summon medical or other emergency help;

(c) Prevent injury to a person or property; or

(d) Relay information between a transit or for-hire operator and that operator's dispatcher, in which the device is permanently affixed to the vehicle.

5. Nothing in this section shall be construed or interpreted as prohibiting a person from making or taking part in a telephone call, by means of a hand-held electronic wireless communications device, while operating a noncommercial motor vehicle upon the highways of this state.

6. As used in this section, "**electronic message**" means a self-contained piece of digital

communication that is designed or intended to be transmitted between hand-held electronic wireless communication devices. "Electronic message" includes, but is not limited to, electronic mail, a text message, an instant message, or a command or request to access an internet site.

7. As used in this section, "**hand-held electronic wireless communications device**" includes any hand-held cellular phone, palm pilot, blackberry or other mobile electronic device used to communicate verbally or by text or electronic messaging, but shall not apply to any device that is permanently embedded into the architecture and design of the motor vehicle.

8. As used in this section, "**making or taking part in a telephone call**" means listening to or engaging in verbal communication through a hand-held electronic wireless communication device.

9. As used in this section, "**send, read or write a text message or electronic message**" means using a hand-held electronic wireless telecommunications device to manually communicate with any person by using an electronic message. Sending, reading or writing a text message or electronic message does not include reading, selecting or entering a phone number or name into a hand-held electronic wireless communications device for the purpose of making a telephone call.

10. It shall be unlawful for any person to violation any provision of this section and a person found guilty of any violation thereof shall be sentenced to pay a fine not to exceed two hundred dollars.

11. The provisions of this section shall not apply to:

(1) The operator of a vehicle that is lawfully parked or stopped;

(2) Any of the following while in the performance of their official duties: a law enforcement officer; a member of a fire department; or the operator of a public or private ambulance;

(3) The use of factory-installed or aftermarket global positioning systems (GPS) or wireless communications devices used to transmit or receive data as part of a digital dispatch system;

(4) The use of voice-operated technology;

(5) The use of two-way radio transmitters or receivers by a licensee of the Federal Communications Commission in the Amateur Radio Service.

**State Law reference**— similar provisions, §304.820, RSMo.

Section 8. Section 30-143 of the Code of Ordinances is hereby amended and shall hereafter provide as follows:

**30-143. Domestic assault.**

1. A person commits the offense of domestic assault if the act involves a domestic victim, as the term "domestic victim" is defined under subsection 2, and:

(1) The person attempts to cause or recklessly causes physical injury, physical

pain or illness to such domestic victim;

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

(3) The person purposely places such domestic victim in apprehension of immediate physical injury by any means;

(4) The person recklessly engages in conduct which creates a substantial risk of death or serious physical injury to such domestic victim;

(5) The person knowingly causes physical contact with such domestic victim knowing he or she will regard the contact as offensive; or

(6) The person knowingly attempts to cause or causes the isolation of such domestic victim by unreasonably and substantially restricting or limiting his or her access to other persons, telecommunication devices or transportation for the purpose of isolation.

2. As used in this section, *domestic victim* means a household or family member as the term “family” or “household member” is defined in §455.010, RSMo, including any child who is a member of the household or family.

**State Law reference**— similar provisions, §565.076, RSMo.

Section 9. Section 30-50 of the Code of Ordinances pertaining to assault is hereby repealed.

Section 10. Section 30-144 of the Code of Ordinances is hereby amended and shall hereafter provide as follows:

**30-144. Assault.**

1. A person commits the offense of assault if:

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

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

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

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

(5) The person knowingly causes or attempts to cause physical contact with a person with a disability, which a reasonable person, who does not have a disability, would consider offensive or provocative; or

(6) The person knowingly causes physical contact with another person knowing

the other person will regard the contact as offensive or provocative.

2. Except as provided in subsection 3 of this section, a person found guilty of assault under this section shall be sentenced under section 1-9.

3. A person found guilty of violating the provisions of subdivision (3) or (6) of subsection 1 of this section shall be sentenced under section 1-9 except any sentence of imprisonment shall not exceed 15 days, unless the victim is a special victim, as the term "special victim" is defined under subsection 4, in which case a person found guilty of a violation of such provisions shall be sentenced under subsection 2.

4. As used in this section, *special victim* means:

(a) A law enforcement officer assaulted in the performance of his or her official duties or as a direct result of such official duties;

(b) Emergency personnel, any paid or volunteer firefighter, emergency room, hospital, or trauma center personnel or emergency medical technician, assaulted in the performance of his or her official duties or as a direct result of such official duties;

(c) A probation and parole officer assaulted in the performance of his or her official duties or as a direct result of such official duties;

(d) An elderly person;

(e) A person with a disability;

(f) A vulnerable person;

(g) Any jailer or corrections officer of the state or one of its political subdivisions assaulted in the performance of his or her official duties or as a direct result of such official duties;

(h) A highway worker in a construction or work zone as the terms "highway worker", "construction zone", and "work zone" are defined under §304.580, RSMo;

(i) Any utility worker, meaning any employee of a utility that provides gas, heat, electricity, water, steam, telecommunications services or sewer services, whether privately, municipally, or cooperatively owned, while in the performance of his or her job duties, including any person employed under a contract; and

(j) Any cable worker, meaning any employee of a cable operator, as such term is defined in §67.2677, RSMo, including any person employed under contract, while in the performance of his or her job duties.

**State Law reference**— similar provisions, §§565.056 and 565.002, RSMo.

Section 11. Section 30-123 of the Code of Ordinances is hereby amended and shall hereafter provide as follows:

### **30-123. Stealing.**

A person commits the offense of stealing if such person appropriates property or services of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion.

**State Law reference**— similar provisions, §570.030.1(1), RSMo.

Section 12. Section 30-124 of the Code of Ordinances is hereby amended and shall hereafter provide as follows:

### **30-124. Receiving stolen property.**

A person commits the offense of receiving stolen property if such person, for the purpose of depriving the owner of a lawful interest therein, receives, retains or disposes of property of another knowing that it has been stolen, or believing that it has been stolen.

**State Law reference**— similar provisions, §570.030.1(3), RSMo.

Section 13. Section 30-1 of the Code of Ordinances pertaining to criminal nonsupport is hereby repealed.

### Section 14. **Loitering on closed parking lots.**

(a) *"Private parking lot" defined.* As used in this section, the term "private parking lot" shall, in addition to its customary meaning, include lots or areas devoted to the storage or display of new or used motor vehicles by dealers therein.

(b) *Prohibited.* No person, except the owner, tenant or other person in possession, or their invitees, shall loiter upon or about any public or private parking lot, or upon any parking lot provided for the customers, business invitees or employees of any commercial or industrial establishment, at any time when any such public or private parking lot shall be closed to use by the public or any such commercial or industrial lot shall be closed to use by customers, business invitees and employees.

(c) *Presumption of violation.* Any such person found loitering upon any such lot or facility at any time that signs have been previously erected giving notice that the lot is closed to use shall be presumptively upon the lot in violation of this section, which presumption shall be rebuttable.

Section 15. Section 46-79 of the Code of Ordinances is hereby amended and shall hereafter provide as follows:

### **Sec. 46-79. Specific speed limits.**

It shall be unlawful for a person to operate a motor vehicle in excess of the speed limits established herein as follows:

(a) The speed limit on Highway 160, also known as 12<sup>th</sup> Street, from the Muddy Creek Bridge and east thereof shall be forty (40) miles per hour.

(b) The speed limit on Highway 160, also known as 12<sup>th</sup> Street, West of the City of Lamar

Heights shall be forty-five (45) miles per hour.

(c) The speed limit on NW 1<sup>st</sup> Lane and SW 1<sup>st</sup> Lane, also known as the West Outer Road of Interstate 49, shall be forty-five (45) miles per hour.

(d) The speed limit on all streets within the Lamar City Park shall be fifteen (15) miles per hour.

(e) The speed limit on the public square, which includes Gulf Street between 10<sup>th</sup> and 11<sup>th</sup> Streets, 11<sup>th</sup> Street between Gulf and Broadway Streets, Broadway Street between 10<sup>th</sup> and 11<sup>th</sup> Streets, and 10<sup>th</sup> Street between Gulf and Broadway Streets, and including the entire intersections of those streets, shall be twenty (20) miles per hour.

(f) The speed limit on 1<sup>st</sup> Street, also known as NE 5<sup>th</sup> Lane, West of the east edge of the Muddy Creek Bridge shall be forty (40) miles per hour.

Section 16. Section 28-5 of the Code of Ordinances is hereby amended and shall hereafter provide as follows:

**Sec. 28-5. Abatement, notice.**

(a) Except as provided in subsection (c) of this section, when the police chief or any police officer becomes aware of the existence of any nuisance, he or she shall cause a written notice to be served upon the owner or occupant either in person or by the United States mail or by posting such notice on the premises. The notice shall give the owner or occupant seven (7) days in which to abate the said nuisance, except if the owner or occupant has previously, during the previous 365 days, been given a notice pursuant to this section, then said notice shall give the owner or occupant forty-eight (48) hours in which to abate the said nuisance.

(b) Subsection (a) does not apply to nuisances for which another abatement procedure is provided by ordinance.

(c) In the event that the police chief or any police officer becomes aware of the existence of a nuisance described in section 28-3(14), he or she shall cause a written notice to be served upon the owner or occupant either personally or by United States mail or by posting such notice on the premises. The notice shall give the owner or occupant seven days in which to abate the said nuisance, except if the owner or occupant has previously, within the previous 365 days, been given a notice pursuant to this section, then no notice shall be given.

Section 17. Section 6-74 of the Code of Ordinances is hereby amended and shall hereafter provide as follows:

**Sec. 6-74. Number of dogs and cats to be kept.**

No person or persons residing within one dwelling shall possess, keep or harbor within the city any combination of more than four (4) dogs or cats at the dwelling. Any young produced by any adult dog or cat permitted herein that causes an exceedance of the four-animal limit may be maintained with the parent animals for a period of up to ten weeks. In addition to any penalty which may be imposed for violation of this section, the municipal court shall order the defendant to reduce the number of dogs and/or cats possessed, kept or harbored by the defendant to four (4). Should the



defendant refuse to reduce the number of dogs or cats that defendant possesses, keeps or harbors, the municipal court shall find the defendant in contempt of court and order the immediate confiscation and impoundment of all dogs and cats possessed, kept or harbored by the defendant. In addition to the foregoing penalties, any person who violates this section shall pay all expenses, including sums for shelter, food, handling and veterinary care, which may be necessitated by the person's failure to abide by the provisions of this section.

**Section 18. Animal droppings**

Every owner or other person in control of a pet animal or livestock shall cause the droppings therefrom to be properly disposed of so that neither odor, disease nor flies shall be allowed to congregate thereon. No owner or other person in control of a pet animal or livestock shall allow such animal(s) to defecate upon public property, streets or rights-of-way, or upon property of any other person without his or her permission, unless the owner or person in control of such animal(s) shall take adequate measures to remove such droppings.

Section 19. Paragraph (2) of subsection (a) of section 46-171 is hereby amended and shall hereafter provide as follows:

(2) A person operating a golf cart on a street, highway or alleyway pursuant to this article shall be at least sixteen (16) years of age and have a valid operator's or chauffeur's license on his or her person while said golf cart is in operation.

Section 20. Subsection (d) of section 46-171 is hereby amended and shall hereafter provide as follows:

(d) Golf carts that are equipped with a "bed" have special restrictions. The bed portion of the golf cart shall be used for the transportation of goods only. It shall be unlawful for any person to ride in the bed portion of such golf cart and it shall be unlawful for any person to operate such golf cart while another person is riding in the bed portion thereof.

**Section 21. Utility vehicle use; definitions; operated at own risk; penalty.**

(a) As used in this section, *utility vehicle* means any motorized vehicle manufactured and used exclusively for off-highway use which is more than fifty inches but no more than sixty-seven inches in width, with an unladen dry weight of two thousand pounds or less, traveling on four or six wheels, to be used primarily for agricultural, recreational, landscaping, lawn care, or maintenance purposes.

(b) *Limitations on utility vehicle operations on public streets.*

(1) Utility vehicle operations on public streets and alleys shall be in accordance with the following limitations:

a. *Traffic laws apply.* It shall be unlawful for any person to operate a utility vehicle in any manner which violates the provisions of chapter 46 or state traffic laws. In addition, no person shall operate a utility vehicle:

1. In any careless way so as to endanger the person or property of another;

2. While under the influence of alcohol or any controlled substance;

3. Unless such person is sixteen (16) years of age or older.

b. *Financial responsibility required.* Any person operating a utility vehicle on a street or highway shall maintain proof of financial responsibility in accordance with §303.160, RSMo, or maintain any other insurance policy providing equivalent liability coverage for a utility vehicle.

c. *Valid license required.* A person operating a utility vehicle on a street or highway pursuant to any exceptions created in §§304.032 and 304.013, RSMo, shall have a valid operator's or chauffeur's license, except that a handicapped person operating such vehicle under subdivision (3) of subsection (b) of this section, shall not be required to have passed an examination for the operation of a motorcycle, and the vehicle shall be operated at speeds of less than 30 miles per hour when being operated under the exceptions set forth in subsection (b) below.

d. *Local permit required.* In addition to a valid operator's license, a person operating a utility vehicle on a street or highway shall be required to have a special permit provided by the city, as authorized by §§304.032 and 304.013, RSMo. However, no veteran, disabled person or city resident over the age of 55 years will be required to purchase a special permit. An annual fee in the amount provided in the city fee schedule, not to exceed \$15.00, shall be charged for each special permit so issued and the special permit is renewable annually on or before January 1 of each year by the operator upon proof of valid license and payment of the annual permit fee.

e. *Decal, flag required.* Every utility vehicle whenever operated on a public street shall display a decal representing the purchase or acquisition of a current special permit in conformity with §307.127, RSMo. Decals are nontransferable and a new owner shall register his or her utility vehicle within ten business days of purchase if he or she desires to operate it on the public roadways of the city. Every utility vehicle shall display a bicycle safety flag which extends not less than seven feet above the ground attached to the rear of the vehicle. The bicycle safety flag shall be triangular in shape with an area of not less than 30 square inches and shall be day glow in color.

f. *Lights required after dusk.* Utility vehicles shall be operated upon the public streets only between sunrise and sunset, unless equipped with proper lights.

g. *Seats required.* No operator of a utility vehicle shall carry a passenger, except for agricultural purposes. The provisions of this subsection shall not apply to any utility vehicle in which the seat of such vehicle is designed to carry more than one person.

h. *Right side of road.* Utility vehicles must be operated at the extreme right of the street and must yield to all vehicular and pedestrian traffic.

(2) The limitations of subsection (b) shall not apply to utility vehicles being operated as follows:

a. Utility vehicles owned and operated by a governmental entity for official use;

b. Utility vehicles operated for agricultural purposes or industrial on-premises purposes between the official sunrise and sunset on the day of operation, unless equipped with proper lighting;

c. Utility vehicles operated by disabled persons for short distances occasionally only on secondary roads and city streets when operated between the hours of sunrise and sunset.

(c) *Liability disclaimed.* The ordinance from which this section is derived is adopted to address the interest of public safety. Utility vehicles are not designed or manufactured to be used on public streets and the city in no way advocates or endorses their operation on public streets and alleys. The city, by regulating such operation is merely trying to address obvious and continuing safety issues that have arisen by the increased use of such vehicles by the public. The adoption of the ordinance from which this section is derived is not to be relied upon as a determination that operating on public streets is safe or advisable if done in accordance with this section. All persons who operate or ride upon utility vehicles on public streets or alleys do so at their own risk and must be observant of and attentive to the safety of themselves and others, including passengers, other motorists, bicycles and pedestrians. The city assumes no liability under any theory of tort or contract and specifically denies any such liability including comparative fault. Any person who operates a utility vehicle is responsible for procuring and maintaining liability insurance sufficient to cover the risk involved with operating a utility vehicle on public streets and alleys and the procurement of such insurance is a condition precedent to the lawful operation of a utility vehicle under this section.

(d) *Penalty.* Any violation of the provisions this section shall be a traffic ordinance violation punishable under section 1-9.

(e) *Severability.* It is hereby declared to be the intention of the board of aldermen that each and every part, paragraph and subsection of this section shall be separate and severable from each and every other part, paragraph and subsection hereof and that the board of aldermen intends to adopt each said part, section and subsection separately and independently of any other part, paragraph and subsection. In the event that any part of this section shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, paragraphs and subsections shall be and remain in full force and effect.

Section 22. The Municipal Code Corporation is hereby authorized to assign section numbers and article numbers within the Code of Ordinances to the various provisions, sections and subsections of this ordinance in the next supplement, as it deems necessary and appropriate, provided that the provisions and terms herein contained, and the meaning thereof, are not changed.

Section 23. This Ordinance shall be in full force and effect from and after its passage and approval.

Section 24. All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed.

**PASSED** by the Board of Aldermen and **APPROVED** by the Mayor of the City of Lamar,

Missouri, this 18th day of February, 2019.

By \_\_\_\_\_  
KENT M. HARRIS, Mayor

ATTEST:

By \_\_\_\_\_  
BEV BAKER, City Clerk