**Chapter 19**

**OFFENSES**

**CONTENTS**

**ARTICLE I. IN GENERAL**

§ 19-1. Failure to stop when signaled by police officer.

§ 19-2. Resisting arrest.

§ 19-3. Escape of person in custody.

§ 19-4. Peering into the residence of another.

§ 19-5. False reports to law enforcement officials - Prohibited.

§§ 19-6 to 19-9. Reserved.

**ARTICLE II. DISORDERLY CONDUCT AND PUBLIC ORDER**

§ 19-10A. Assault.

§ 19-10B. Assaults on police officers.

§ 19-10C. Penalty.

§ 19-10D. Domestic Assault in the Third Degree.

§ 19-11. Disorderly conduct and offenses against the public peace.

§ 19-11A. Disorderly conduct.

§ 19-11B. Peace disturbance.

§ 19-11C. Interfering with a police officer.

§ 19-11D. Failure to obey a reasonable direction of a police officer.

§ 19-11E. Harassment.

§ 19-11F. Unlawful riotous assembly.

§ 19-11G. Loitering.

§ 19-11H. Penalty.

§ 19-12A. Sale of tobacco to minors.

§ 19-12B. Purchase or possession of tobacco by minors.

§ 19-12C. Penalty.

§ 19-13. Regulation of laser pointing devices.

§ 19-14. Riding bicycles, motorized bicycles, skateboards, roller skates or roller blades on sidewalks prohibited. Penalties.

§ 19-15. Reserved.

**ARTICLE III. ALCOHOL & DRUG ABUSE CONTROL**

§ 19-16. Marijuana possession and apparatus - Prohibited.

§ 19-17. Inhalants.

§ 19-18. Open beer or liquor containers prohibited.

§ 19-19 Possession and transport of controlled substances prohibited - penalty.

§ 19-20 Sale of Ephedrine and Pseudoephedrine restricted.

§ 19-21 Reserved.

*(Revised 11/11)*

241

**ARTICLE IV. HEALTH AND SAFETY**

§ 19-22. Littering.

§ 19-23. Obstructing vision on a roadway - penalty

§ 19-24 to 19-27. Reserved.

**ARTICLE V. NOISE REGULATIONS**

§ 19-28. Noise regulations.

§ 19-29 to 19-33. Reserved.

**ARTICLE VI. PROPERTY AND THEFT OFFENSES.**

§ 19-34. Damaging or tampering with city meters.

§ 19-35. Destroying or disfiguring city property.

§ 19-36. Destroying or disfiguring private property.

§ 19-37. Stealing.

§ 19-37A. Stealing under $750.00.

§ 19-37B. Penalty.

§ 19-38A. Defrauding an inn keeper.

§ 19-38B. Penalty.

§ 19-39. Trespassing.

§ 19-40. Failure to return rental or leased property.

§ 19-41. Passing bad checks.

§§ 19-42 to 19-44. Reserved.

**ARTICLE VII. WEAPONS AND EXPLOSIVES**

§ 19-45. Carrying concealed weapons on person prohibited; exception.

§ 19-46. Unlawful use of weapons and brandishing a weapon.

§ 19-47. Physicians to report gunshot or other wounds.

§ 19-48. Penalty.

§§ 19-49 to 19-51. Reserved.

**ARTICLE VIII. REGULATING THE SALE AND USE**

**OF FIREWORKS WITHIN THE CITY**

§ 19-52. Definitions.

§ 19-53. Possession and sale of fireworks unlawful without permits; conditions on permits and sale.

§ 19-54. Fireworks - Items prohibited from sale and possession, exceptions.

§ 19-55. Sales by and to minors prohibited; certain use of fireworks prohibited; use of certain types of fireworks prohibited; storage and display restrictions.

§ 19-56. Permits for public displays, requirements.

§ 19-57. Violation a misdemeanor.

§§ 19-58 to 19-64. Reserved.

 *(Revised 07/17)*

242

**ARTICLE IX. CURFEW FOR MINORS**

§ 19-65. Children on streets at night.

§ 19-66. Permitting children to violate curfew.

§ 19-67. Detaining child.

§ 19-68. Delinquent children.

§§ 19-69 to 19-73. Reserved.

 *(Revised 11/11)*

242.1

 *(Revised 11/11)*

242.2

**Chapter 19**

**OFFENSES**

**ARTICLE I**

**IN GENERAL**

**Sec. 19-1. Failure to stop when signaled by police officer.**

(a) ***Definitions -*** The term *"peace officers"* as used in this Chapter shall mean any city marshal or deputy marshal, or any person deputized by the board of aldermen of the City of Potosi to supervise and control traffic.

 (b) ***Flight from officer to be unlawful, when -*** If any peace officer of the City of Potosi, in the pursuit of his official duties, shall signal to any person by means of any horn, light, or other signal, to stop his vehicle, such person so signaled shall bring his said vehicle to a full, complete and safe stop, at the same time driving such vehicle off the street or highway or bringing the same as near to the right hand side of the roadway as practicable, and such person shall further keep his said vehicle at a stop until the said peace officer has completed any investigation which he may wish to pursue. It is further declared to be a misdemeanor for any person, when so signaled, to fail or refuse to bring his vehicle to a halt as herein provided.

 (c) ***Fine or punishment for violation -*** Any person who violates any of the provisions of this Ordinance shall, upon conviction thereof, be punished by a fine of not less than five dollars ($5.00) nor more than five hundred dollars ($500.00), or by imprisonment in the city jail for a term of not exceeding ninety days, or by both such fine and imprisonment. (Ord. 322, §§1-3; Ord. 479, §3.)

**Sec. 19-2. Resisting arrest.**

(a) ***Definitions:***

The term *"peace officers"* as used in this Chapter shall mean any city marshal, deputy marshal or any person deputized by the board of aldermen of the City of Potosi to supervise and control traffic, or to maintain the peace.

 The term *"resist"*as used in this Chapter shall mean any challenging, fighting or attempting to fight, or refusal to obey a reasonable command of a peace officer.

 (b) ***Resistance to arrest forbidden -*** No person shall knowingly and willfully abstract, resist or oppose any peace officer who is in the process of serving any warrant or who is undertaking to make any arrest within his official capacity.

 (c) ***Punishment for violation -*** Any person who violates any of the provisions of this Section shall, upon conviction thereof, be punished by a fine of not less than five nor more than fifty dollars, or by imprisonment in the city jail for a term of not exceeding ninety days, or both such fine and imprisonment. (Ord. 323, §§1-3.)

243

**Sec. 19-3. Escape of person in custody.**

(a) ***Definitions:***

*Prisoner* ***-*** The term "prisoner" as used in this Chapter is hereby defined to mean any person appearing in the city police court of the City of Potosi, Missouri, to answer a complaint of violation of a city ordinance, any person who has been convicted, either upon a plea of guilty or following trial upon a plea of not guilty, of violation of a city ordinance of said city and any person who shall have been committed to the city jail either as a part of the judgment of the court or for failure to pay such fine and court costs as may have been assessed.

 *Custody* ***-*** The term "custody" is hereby defined to mean that period of time, of whatever length between the time when such person shall appear in the city police court of said city to answer a charge of violation of a city ordinance and the time when such person shall have completed the serving of any sentence in the city jail or shall have paid the full amount of any fine and court costs which shall have been assessed against such person under the verdict and judgment of the court, and until such person shall be entitled to be discharged and released from the city jail of said city by law or by the terms of the court's judgment.

 *Escape* ***-*** The term "escape" is hereby defined to mean the departure of such person from the city hall or city jail of said city, either with or without force, before such time as such person shall have a legal right, under the law or under the judgment of the court, to so depart.

 (b) ***Escape unlawful -*** From and after the date of the passage and the approval of this Chapter it shall be unlawful for any person in custody, as the same is herein defined, to escape from such custody either with or without the use of force. It shall further be unlawful for any person to aid, abet or assist such person so held in custody, to effect an escape.

 (c) ***Punishment for violation -*** Any person who shall be guilty of violating this Section, either by escaping from custody or by aiding, abetting or assisting another so to escape, shall, upon conviction thereof, be punished by a fine of not less than five dollars ($5.00) nor more than five hundred dollars ($500.00), or by imprisonment in the city jail for a term not to exceed ninety (90) days or by both such fine and imprisonment, and in addition thereto such person shall be adjudged to pay the costs of such action. (Ord. 365, §§1-3; Ord. 479, §3.)

**Sec. 19-4. Peering into the residence of another.**

(a) ***Declaration of necessity -*** In the interest of the public welfare and safety and in the exercise of the police power the board of aldermen of the City of Potosi, Missouri, hereby declares it to be necessary to pass the within ordinance.

 (b) ***Peering or looking into residence of another within stated times prohibited -*** It is hereby declared to be unlawful for any person to peer, look, peep, or stare into the residence or place of abode of another during the hours between sunset and sunrise, said hours to be fixed by the official times of the setting and rising of the sun according to official United States reports.

 (c) ***Penalty for violation -*** Any person who violates the provisions of this Section shall, upon conviction thereof, be punished by a fine of not less than five dollars ($5.00) nor more than five hundred dollars ($500.00), or by imprisonment in the city jail for a term of not more than three months, or by both such fine and imprisonment. (Ord. 328, §§1-3; Ord. 479, §3.)

244

**Secs. 19-5. False reports to law enforcement officials - Prohibited.**

 (a) ***False police reports*** - A person commits the crime 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) ***Retraction/defense*** - It is a defense to a prosecution under Section (a) of this Section 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) ***Burden of defendant*** - The defendant shall have the burden of injecting the issue of retraction under Section (b) of this Section.

 (d) ***Penalty*** - Any person, firm or corporation violating the provisions of this Section shall be guilty of an infraction and, upon conviction thereof, shall be fined not less than five dollars ($5.00) nor more than five hundred dollars ($500.00) . (Ord. 595,§§1-4.)

**Secs. 19-6 to 19-9. Reserved.**

245

246

**ARTICLE II**

**DISORDERLY CONDUCT**

**AND PUBLIC ORDER**

**Sec. 19-10A. Assaults.**1

 No person in the City of Potosi shall willfully strike, beat, bruise, wound, ill-treat or inflict violence upon another person, or attempt to strike, beat, bruise, wound, ill-treat or inflict violence upon another person, except as may rise to the level of legal justification, which issue of justification shall be an affirmative defense.

 Legal justification shall be limited to the following defenses:

 (a) Actions of law enforcement officers engaged in the line of duty;

 (b) Self defense in such circumstances as defined and permitted by the law of the State of Missouri;

 (c) Defense of others, in such circumstances as defined and permitted by the law of the State of Missouri;

 (d) Defense of property, in such circumstances as defined and permitted by the law of the State of Missouri. (Ord. 688, §1; Ord. 766, §1)

**Sec. 19-10B. Assaults on police officers.**

A person commits the crime of assault of a law enforcement officer if:

 (1) He attempts to cause or recklessly causes physical injury to a law enforcement officer;

 (2) With criminal negligence be causes physical injury to a law enforcement officer by means of a deadly weapon;

 (3) He purposely places a law enforcement officer in apprehension of immediate physical injury.

 (4) He recklessly engages in conduct which creates a grave risk of death or serious physical injury to a law enforcement officer; or

 (5) He knowingly causes or attempts to cause physical contact with a law enforcement officer. (Ord. 688, §1)

**Sec. 19-10C. Penalty.**

 Any person violating the provisions of subsections (a) and (b) of this Section shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than five dollars ($5.00) nor more than five hundred dollars ($500.00), by imprisonment in the city jail for a term not to exceed ninety days, or by both such fine and imprisonment. Provided, any person under the age of seventeen years shall be dealt with according to the Missouri Juvenile Code. (Ord. 467, §§1-5; Ord. 479, §3; Ord. 688, §1).

**STATE CROSS REFERENCE:**

**1. Assault of a law enforcement officer, RSMo. §565.083.**

*(Revised 12.00)*

247

**Sec. 19-10D. Domestic Assault in the Third Degree.2**

 A person commits the crime of domestic assault in the third degree if the act involves a family or household member or an adult who is or has been in a continuing social relationship of a romantic or intimate nature with the actor, as defined in Section 455.010 RSMo, and

1. The person attempts to cause or recklessly causes physical injury to such family or household member; or
2. With criminal negligence the person causes physical injury to such family or household member by means of a deadly weapon or dangerous instrument; or
3. The person purposely places such family member or household member in apprehension of immediate physical injury by any means; or
4. The person recklessly engages in conduct which creates a grave risk of death or serious physical injury to such family or household member; or
5. The person knowingly causes physical contact with such family or household member knowing the other person will regard the contact as offensive; or
6. The person knowingly attempts to cause or causes the isolation of such family member by unreasonably and substantially restricting or limiting such family or household member’s access to other persons, telecommunication devices or transportation for the purpose of isolation.

 Upon conviction of domestic assault in the third degree, the defendant shall be punished according to Section 19-10C. (Ord. 1032, §1)

**Sec. 19-11. Disorderly conduct and offenses against the public peace.3**

 (a) ***Definitions:***

 The term *street* shall mean any alley, thoroughfare, pathway, or other course of travel open to the public.

 The term *highway* shall include any road, lane, or any terminal or continuance of roadway open to the public.

 The term *public place* shall include but is not limited to, places of amusement, parks, playgrounds, dance halls, stores, shops, other business or commercial establishments and similar premises open to the public.

 The term *unoccupied premises* or *grounds* shall include all areas and premises of the city except those premises designed as dwellings or places of residence and presently occupied by such residents. (Ord. 686, §1)

**Sec. 19-11A. Disorderly conduct.**

Any person shall be guilty of disorderly conduct if, he/she causes, provokes or engages in any fight, brawl or riotous conduct so as to endanger the life or welfare of another or is in a public place under the influence of an intoxicating liquor or drug in such condition as to be unable to exercise care for his own safety or the safety of others. (Ord. 686, §1)

**STATE LAW REFERENCE:**

**2. Domestic Assault, RSMo. §455.010**

**3. Peace disturbance, RSMo. §574.010.**

 *(Revised 11/11)*

248

**Sec. 19-11B. Peace disturbance**.

 No person in the City of Potosi shall conduct himself in a lewd, wanton, or lascivious manner in speech or behavior in any public place nor disquiet or disturb any congregation or assembly for religious worship by making noise or by rude or indecent behavior, or profane discourse within their place of worship, or so near the same as to disturb the order nor shall any person make unnecessary noises within the City of Potosi after the daylight hours. Such noises shall include, but without limitations, horn signaling devices, radios, phonographs, loud speakers, amplifiers, yelling, shouting, whistles, or other such producers of noise. (Ord. 686, §1)

**Sec. 19-11C. Interfering with a police officer**.

 It shall be unlawful for any person to, hinder, obstruct or otherwise interfere with any city officer or member of the police force of this city in the discharge of officers official duties, or interfere with the arrest of another person by using or threatening to use violence, physical force or physical interference..(Ord. 686, §1)

**Sec. 19-11D. Failure to obey a reasonable direction of a police officer**.

 It shall be unlawful for any person to willfully and knowingly obstruct, resist, oppose or fail to obey a lawful command any police office or public official of the City, or any person dully authorized or attempting to execute and carry into effect in provision of this Ordinance or other ordinances made by the proper authorities of this City. (Ord. 686, §1)

**Sec. 19-11E. Harassment**.

 A person commits the violation of harassment if for the purpose of frightening or disturbing another person, he/she, communicates in writing or by telephone a threat to commit a crime, or makes a telephone call or communication in writing and uses course language offense to one of an average sensibility, or makes a telephone call anonymously, or makes repeated telephone calls. (Ord. 686, §1)

**Sec. 19-11F. Unlawful riotous assembly.**

If three (3) or more persons who shall assemble together within the City or, being lawfully assembled, shall act in concert to do any unlawful act, force or violence, against the property of another or the City of Potosi, (Ord. 686, §1)

**Sec. 19-11G. Loitering**.

 No person or persons shall congregate, stand or loiter upon any public street or sidewalk so as to block or obstruct the same, or remain loafing on the streets or sidewalks and spend their time in idleness, to the inconvenience or annoyance of the traveling public, and any such person or persons shall move on when ordered so to do by any City of Potosi Police Officer. (Ord. 686, §1)

 *(Revised 11/11)*

249

**Sec. 19-11H. Penalty**.

 Any person violating the provisions of subsections of this Section shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than five dollars ($5.00) nor more than five hundred dollars ($500.00), by imprisonment in the city jail for a term not to exceed ninety days, or by both such fine and imprisonment. Provided, any person under the age of seventeen years shall be dealt with according to the Missouri Juvenile Code. (Ord. 602, §§19-1101 - 19-1104; Ord. 686, §1).)

**Sec. 19-12A. Sale of tobacco to minors.4**

1. It shall be unlawful for any person to sell tobacco products or tobacco product paraphernalia to a minor. (Ord. 687, §1)

 (b) For the purposes of this section, the following terms shall have the meanings designated:

(1) Tobacco products shall mean any substance containing tobacco leaf, including, but not limited to, cigars, cigarettes, pipe tobacco means any tobacco products that are suitable for dipping or chewing, such as snuff, chewing tobacco or dipping tobacco.

(2) Tobacco product paraphernalia shall include, but not be limited to, cigarette wrapping papers and pipes made for smoking tobacco products.

(3) Minor shall mean any person under the age of eighteen (18) years.

(4) Vending machine shall mean any mechanical, electric or electronic, self-service device which, upon insertion of money, tokens or any other form of payment, dispenses tobacco products. (Ord. 687, §1)

**Sec. 19-12B. Purchase or possession of tobacco by minors.**

It shall be unlawful for a minor to purchase or attempt to purchase cigarette, tobacco products, or to have cigarettes or tobacco products in his or her possession. (Ord. 687, §1)

**Sec. 19-12C. Penalty**.

 Any person violating the provisions of subsections of this Section shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than five dollars ($5.00) nor more than five hundred dollars ($500.00), by imprisonment in the city jail for a term not to exceed ninety days, or by both such fine and imprisonment. Provided, any person under the age of seventeen years shall be dealt with according to the Missouri Juvenile Code. (Ord. 687, §1)

**STATE LAW REFERENCE:**

**4. Tobacco products, sale to minors, RSMo. §407.925 to §407.931.**

*(Revised 11/11)*

250

**Sec. 19-13. Regulation of laser pointing devices.**

 (a) Sale of Laser Pointers Prohibited to Minors. It shall be unlawful, within the City Limits of the City of Potosi, Missouri, for any person to sell a laser pointer to any person under the age of eighteen (18) years.

 (b) Possession of Laser Pointers by Minors Prohibited. It shall be unlawful for any person under the age of eighteen (18) years, to possess a laser pointer, except in the residence of that person.

 (c) Prohibited Uses of Laser Pointers.

 It shall be unlawful for any person to use a laser pointer in any of the following ways:

(1) It shall be unlawful for any person to use a laser pointer in such a manner that the laser beam illuminates upon a uniformed law enforcement officer, or that officer's patrol vehicle, wherever that officer or vehicle may be located.

 (2) It shall be unlawful for any person to use a laser pointer in such a manner that the laser beam illuminates upon another person or near another person's head or eyes.

(3) It shall be unlawful for any person to use a laser pointer in such a manner that the laser beam illuminates upon a motor vehicle or any occupant therein.

(4) It shall be unlawful for any person to use a laser pointer from inside a building in such a manner that the laser beam illuminates upon any person, animal, object or place located outside the building where the person using the laser pointer is located.

(5) It shall be unlawful for any person located upon or near the public right of way, street, alley, public park, or upon a public or private parking lot accessible to the use of the public to use a laser pointer.

 (d) Definitions. For the purposes of this section, a *laser pointer is* any device which contains a small diode laser that emits a beam of light, including but not limited to Class 2 lasers, Class 3a and 3b lasers, and class 4 lasers.

 (e) Penalty. Any person violating the provisions of this Section shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than five dollars ($5.00) nor more than five hundred dollars ($500.00), by imprisonment in the city jail for a term not to exceed ninety (90) days, or by both such fine and imprisonment. Upon such conviction, or in the case of a juvenile remand to the Juvenile Office of Washington County, Missouri, the Court shall order that the laser pointer so used shall be forfeited to the city as contraband, and shall be destroyed. Provided, any person under the age of seventeen (17) years shall be dealt with according to the Missouri Juvenile Code, unless certified to be tried as an adult. (Ord. 735, §1)

*(Revised 11/11)*

250.1

**Sec. 19-14. Riding bicycles, motorized bicycles, skateboards, roller skates or roller blades on**

 **sidewalks prohibited. Penalties.**

 (a) It shall be unlawful for any person to ride or operate a bicycle, scooter of any type, skateboard, roller skates, roller blades or similar device upon a sidewalk within a commercial, business, industrial or manufacturing zone or area of the City of Potosi.

 (b) Nothing in paragraph (a) above shall be construed to restrict the use of wheelchairs, motorized wheelchairs, or electric personal conveyance upon any sidewalks.

 (c) Whenever any person is riding a bicycle, skateboard, roller skates, roller blades or similar device upon a sidewalk, such person shall yield the right of way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian.

 (d) No person shall operate a motorized bicycle, motorized scooter, or any other motorized conveyance of any type powered by an internal combustion engine upon any sidewalk within the City of Potosi.

 (e) Any person who violates the provisions of this Section shall be guilty of a misdemeanor and the punishment will be fine of not less than five dollars ($5.00) nor more than five hundred dollars ($500.00) for each violation. (Ord. 878, §1)

**Sec. 19-15. Reserved.**

*(Revised 11/11)*

250.2

**ARTICLE III**

**ALCOHOL & DRUG ABUSE CONTROL**

**Sec. 19-16. Marijuana possession and apparatus - Prohibited.**5

 (a) **Definitions*:***

*"Marijuana"*as used herein means all parts of the plant cannabis sativa L. whether growing or not, the seeds thereof, the rosin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the rosin extracted there from, fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination.

 *"Person"*as used herein means individual, corporation, agency, business trust, estate, trust, partnership or association or any other legal entity.

 *"Sale"* as used herein includes barter, exchange or gift or offer therefore, and each such transaction made by any person, whether as principal proprietor, agent, servant or employee.

 (b) **Growing or possession of marijuana unlawful *-*** It shall be unlawful for any person to grow, manufacture, possess, have under his control, sell, prescribe, administer, dispense, distribute, or compound marijuana within the corporate limits of the City of Potosi.

 (c) **Possession of drug paraphernalia unlawful *-*** 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 sections 195.005 to 195.425 RSMo. (Ord. 853, §1)

 (d) **Transporting marijuana unlawful *-*** It shall be unlawful for any person to transport, carry, and convey marijuana, or to conceal or to possess marijuana in any motor vehicle, aircraft, or other vehicle used for transportation.

 (e) **Penalties -**Any person who shall violate the provisions of this Section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than five dollars and not more than five hundred dollars, or by imprisonment in the city jail for a term not to exceed ninety days, or by both such fine and imprisonment. (Ord. 488, §§1-5; Ord. 853, §1)

**CROSS REFERENCES:**

**5. Operation of motor vehicles under influence of drugs, §§24-218 to 24-220; also see liquor control, Ch. 3.**

**STATE LAW REFERENCES:**

**5. Narcotic drug act, RSMo. §§195.010 to 195.210; marijuana defined RSMo. §195.010(22); destruction of marijuana plants, RSMo. §263.250.**

*(Revised 11/11)*

251

**Sec. 19-17. Inhalants.**6

 (a) No person shall intentionally smell or inhale the fumes of any solvent, particularly toluol, or induce any other person to do so, for the purpose of causing a condition of, or inducing symptoms of intoxications, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, paralysis, stupefaction or dulling of senses or nervous system, or for the purpose of, in any manner, changing, distorting the audio, visual, or mental processes.

 (b) No person shall intentionally or willfully induce the symptoms (referred to in subsection (a) of this ordinance) by the use of any solvent, particularly toluol.

 (c) No person shall intentionally possess in solvent, particularly toluol, for the purpose of using it in the manner prohibited above.

 (d) No person shall intentionally possess or buy any solvent, particularity toluol, for the purpose of inducing or in the aiding of any other person to violate the provision of the above Section 19-17.

 (e) No person shall knowingly and intentionally sell or otherwise transfer possession of any solvent, particularly toluol, to any person for the purpose of causing a condition of, or inducing any of the symptoms described above in Section 19-17.

 (f) This section shall not apply to the inhalation of any anesthesia for medical or dental purposes.

 (g) **Penalty**. Any person violating the provisions of subsections of this Section shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than five dollars ($5.00) nor more than five hundred dollars ($500.00), by imprisonment in the city jail for a term not to exceed ninety days, or by both such fine and imprisonment. Provided, any person under the age of seventeen years shall be dealt with according to the Missouri Juvenile Code. (Ord. 685, §1)

**Sec, 19-18. Open beer or liquor containers prohibited.\***

 (a) A person commits the offense of transporting an open beer or liquor container if a container of non-intoxicating beer, beer, malt liquor, wine, or intoxicating liquor is found to be open and readily available for ready consumption within a vehicle under the control of said person or in which said person is a passenger.

 (b) Any person violating any provision of this section shall be deemed guilty of a misdemeanor, punishable by a fine of not less than five dollars ($5.00) nor more than five hundred dollars ($500.00). (Ord. 768, §1)

**CROSS REFERENCE:**

**\*Driving regulations, Sec. 24-226. Alcoholic Beverages, Ch. 3.**

**STATE LAW REFERENCE:**

**6. Inhalants, RSMo. §578.250 to §578.260.**

*(Revised 11/11)*

252

**Sec. 19-19. Possession and transport of controlled substances prohibited – penalty.**7

1. Except as permitted in Chapter 195 RSMo., it shall be unlawful for any person to knowingly possess or transport any controlled substance.
2. It shall be unlawful for any person, outside their legal residence, to be in possession of a controlled substance that is not in its prescribed container, regardless of whether such person has a valid prescription for the controlled substance.
3. Any person who shall violate the provisions of this Section shall be deemed guilty of a misdemeanor, and upon conviction shall be punished as follows:
	1. For first time violation of paragraph 2, by a fine of not less than five nor more than two hundred fifty dollars;
	2. For any other violation of this Section, by a fine of not less than five nor more than five hundred dollars, or by imprisonment in the jail for not more than ninety days, or by both fine and confinement.

 (Ord. 1035, §1)

**Sec. 19-20. Sale of Ephedrine and Pseudoephedrine restricted.**

1. It shall be unlawful to sell, deliver or distribute ephedrine or pseudoephedrine, or any of their salts, or optical isomers, or salts of their isomers, without a valid prescription filled by a licensed pharmacist.

**Sec. 19-20. Sale of Ephedrine and Pseudoephedrine restricted.**

1. It shall be unlawful to sell, deliver or distribute ephedrine or pseudoephedrine, or any of their salts, or optical isomers, or salts of their optical 5isomers, without a valid prescription filled by a licensed pharmacist.
2. Punishment upon conviction shall be by confinement for a period not to exceed 90 days, or by a fine of not less than $50.00 and not more than $500.00, or both fine and confinement.

(Ord. 1010, §1; Amended by Ord. 1026)

**Sec, 19-21. Reserved**

**STATE LAW REFERENCES:**

**7. Possession and transport of controlled substances, RSMo. §§195.**

*(Revised 11/11)*

252.1

*(Revised 11/11)*

252.2

**ARTICLE IV**

**HEALTH AND SAFETY**

**Sec. 19-22. Littering.**

(a) No person or corporation shall throw or place, or cause 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 street within the city limits of the City of Potosi, or upon or about any public sidewalk within the city limits of the City of Potosi, or upon or about any place, owned privately or by the City of Potosi, which is regularly used by pedestrian or vehicular traffic within the city limits of the City of Potosi, or in or upon the banks of any stream within the city limits of the City of Potosi.

(b) Any person who shall violate the terms of this ordinance shall, upon conviction thereof, be punished by a fine of not less than five dollars ($5.00) or more than five hundred dollars ($500.00), or by imprisonment in the city jail for a term of not to exceed three months, or by both such fine or imprisonment. (Ord. 458, §§1-2; Ord. 479, §3.)

**Sec. 19-23. Obstructing vision on a roadway – penalty.**

1. It shall be unlawful for any operator of a motor vehicle to operate said vehicle in such a manner that it produces a large quantity of black or dark smoke which results in a partial obstruction of vision on the roadway, or creates either a noxious odor, or other dangerous situation.
2. Any person who shall violate the provisions of this Section shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than five nor more than five hundred dollars, or by imprisonment in the jail for not more than ninety days, or by both fine and confinement.

(Ord. 1036, §1)

**Secs. 19-24 to 19-27. Reserved.**

*(Revised 11/11)*

253

254

**ARTICLE V**

**NOISE REGULATIONS**

**Sec. 19-28. Noise regulations.**

That this Article of the City of Potosi, Missouri, is to be a part of its municipal code numbered section 19-28, to be entitled "Noise Regulations", and to read as follows:

**Noise Regulations.**

(a) ***Definitions:*** For the purposes of this Article, certain words and phrases used herein are defined as follows:

 *"A" Band level* is the total sound level of all noise as measured with a sound level meter using the "A" weighing network. The unit of measurement is the dB (A).

 *Ambient noise*is the all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources, near and far.

 *Band pressure level* of sound for a specified frequency band is the sound pressure level for the sound contained within the restricted band. The reference pressure must be specified.

 *Bel* is a unit of level when the base of logarithm is ten (10). Use of the bel is restricted to levels of quantities proportional to power.

 *Decibel* is one-tenth of a bel and is a unit of level when the base of the logarithm is the tenth root of ten (10), and the quantities concerned are proportional to power.

 *Frequency*of a function periodic in time is the reciprocal of the primitive period. The unit is the cycle per unit time and must be specified.

 *Microbar*is a unit of pressure commonly used in acoustics and is equal to one dyne per square centimeter.

 *Period*of a periodic quantity is the smallest increment of time for which the function repeats itself.

 *Periodic quantity*is an oscillating quantity, the values of which recur for equal increments of time.

 *Person*is any person, person's firm, association, co-partnership, joint venture, corporation or any entity public or private in nature.

 *Sound-level meter*is an instrument including a microphone, an amplifier, an output meter, and frequency weighting networks for the measurement of noise and sound levels in a specified manner.

255

 *Sound pressure level,* in decibels, of sound twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of this sound to the reference pressure, which reference pressure must be explicitly stated.

*Spectrum*is a function of time and is a description of its resolution into components, each of different frequency and usually of different amplitude and phase and is also used to signify continuous range of components each of different frequency and usually of different amplitude and phase and is also used to signify continuous range of components usually wide in extent within which waves have some specified characteristics such as "audio-frequency spectrum" and is also applied to functions of variables other than time.

 (b) ***Motorized vehicles -*** It shall be unlawful to operate a motorized vehicle within the City of Potosi, Missouri, which creates a noise or sound which exceeds the noise level limits set out hereafter:

 (1) **Trucks and buses:**

 Over 10,000 pounds:

 90 dB (A) measured at 50 feet or more -

 Maximum allowable limit

 95 dB (A) measured at 25 feet or more -

 Maximum allowable limit

 Under 10,000 pounds:

 85 dB (A) measured at 50 feet or more -

 Maximum allowable limit

 90 dB (A) measured at 25 feet or more -

 Maximum allowable limit

 (2) **Passenger cars:**

 85 dB (A) measured at 50 feet or more -

 Maximum allowable limit

 90 db (A) measured at 25 feet or more -

 Maximum allowable limit

 (3) **Motorcycles, including other vehicles:**

 90 dB (A) measured at 50 feet or more -

 Maximum allowable limit

 95 dB (A) measured at 25 feet or more -

 Maximum allowable limit

 The measurement of such sound or noise shall be measured with a sound-level meter meeting the standards prescribed by the American Standards Association. The instrument shall be maintained in calibration and good working order. A calibration check shall be made of the

256

system immediately after any noise measurement. Measurements recorded shall be taken so as to provide a proper representation of the noise source. The microphone during measurements shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. Traffic, aircraft and other transportation noise sources and other background noises shall not be considered in taking measurements except where such background noise interferes with the primary noise being measured.

 (c) ***Places of public entertainment -*** It shall be unlawful to create in any place of public entertainment, including but not limited to, a restaurant, bar, cafe, discotheque or dance hall, any noise which exceeds 65 dB (A). (Ord. 707)

 The measurement of such sound or noise shall be measured with a sound-level meter meeting the standards prescribed by the American Standards Association. The instrument shall be maintained in calibration and good working order. A calibration check shall be made of the system immediately after any noise measurement. Measurements recorded shall be taken so as to provide a proper representation of the noise source. The microphone during measurements shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. Traffic, aircraft and other transportation noise sources and other background noises shall not be considered in taking measurements except where such background noise interferes with the primary noise being measured. Such measurement shall be taken at or near the property line nearest the source of the noise.

 (d) ***Time of violations -*** If any of the noises or sounds regulated in subsections (b), (c) and (d) of this Section occur between the hours of 10:00 p.m. and 7:00 a.m. on Monday through Saturday, or at any time on Sunday or holidays, the maximum noise levels specified in subsections (b) and (c) shall be reduced by three (3) decibels.

 (e) ***Exemptions -*** The following sounds or noises are exempt from the provisions of this section:

 (1) Noises of safety signals or warning devices, including horns used while warning of impending peril.

 (2) Noises, resulting from any authorized emergency vehicle, when responding to an emergency call or acting in time of emergency. (Ord. 541, §1.)

**Secs. 19-29 to 19-33. Reserved.**

*(Revised 12/97)*

257

258

**ARTICLE VI**

**PROPERTY AND THEFT OFFENSES**

**Sec. 19-34. Damaging or tampering with city meters.**

(a) It shall be unlawful for any person to disconnect and/or reconnect any city meter without authority from the city to do so; and it shall be unlawful for any person to suffer, permit or allow any disconnection and/or reconnection of any city meter upon his or her premises without authority from the city.

 (b) It shall be unlawful for any person to destroy, damage or alter in any manner any city meter to cause said meter to register a lesser quantity than is actually consumed.

 (c) It shall be unlawful for any person to have upon his or her premises any city meter which has been destroyed, damaged or altered in any manner to cause said meter to register a lesser quantity than is actually consumed.

 (d) It shall be unlawful for any person to tap or connect to any city utility supply pipe before said pipe shall have been connected to a city meter; and it shall be unlawful for any person to tap or connect to any city utility supply pipe in such a manner as to divert the supply any way except through a city meter.

 (e) It shall be unlawful for any person to have upon his or her premises any tap or connection to any city utility supply pipe before said pipe shall have been connected to a city meter; and it shall be unlawful for any person to have upon his or her premises any tap or connection to any city utility supply pipe that diverts the supply any way except through a city meter.

 (f) Any person found guilty of violating any provision of this Section shall be convicted of a misdemeanor and shall be fined not more than five hundred dollars ($500.00) or be imprisoned in the city jail for a term not to exceed 30 days or both such fine and imprisonment. Each day in which a violation continues shall be a separate offense. (Ord. 527, §§1-6.)

**Sec. 19-35. Destroying or disfiguring city property.**8

 (a) ***Injury to city property a misdemeanor -*** Any person who shall knowingly and willfully injure, deface, mark upon, render unserviceable, or destroy any property, real or personal, belonging to, or in the possession of, the City of Potosi, Missouri, shall be guilty of a misdemeanor.

 (b) ***Penalty for violation -*** Any person who violates the provisions of the foregoing section shall, upon conviction thereof, be punished by a fine of not exceeding twenty-five dollars, or by imprisonment in the city jail for a term of not exceeding thirty days, or by both such fine and imprisonment; and in addition thereto, as a part of such person's punishment, he shall be required to pay the cost of repairing or replacing such property so injured or destroyed. (Ord. 320, §§1-2.)

**STATE LAW REFERENCE:**

**8. Property damage, RSMo. §§569.100 to 569.120.**

*(Revised 11/11)*

259

**Sec. 19-36. Destroying or disfiguring private property.**

(a) A person commits the misdemeanor of private property damage if he recklessly or knowingly causes damage to property of another.

 (b) Upon conviction of this offense, the punishment shall be either confinement in jail for not more than ninety days, or a fine of not less than $5.00 nor more than $500.00, or both fine and confinement. (Ord. 495, §§1-2; Ord. 821, §1)

**Sec. 19-37. Stealing.**

 ***Definitions:*** The following words and phrases, when used in this Section shall have the meanings respectively ascribed to them:

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

 *Coercion* - shall mean a threat, however communicated.

 *Credit device* - shall mean a writing, number or other device purporting to evidence an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer.

 *Dealer* - shall mean a person in the business of buying and selling goods.

 *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 actors intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise.

 *Deprive* - shall mean to withhold property from the owner permanently.

 *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.

 *Writing* - shall mean and include printing any other method of recording information, money, coins, negotiable instruments, tokens, stamps, seals, credit cards, badges, trademarks and any other symbols of value, right privilege or identification. (Ord. 692, §1; Ord. 1124, §1)

 *(Revised 07/17)*

260

**Sec. 19-37A. Stealing under $750.00.**

 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 of a value of seven hundred fifty dollars ($750.00) or less. It shall be a defense under this section that a person did not have the intent to deprive the owner of his property but to merely use the property and promptly return it to the owner provided there was no further transfer of the property and the property was returned to the owner unharmed. The defendant shall have the burden of proof on this issue. (Ord. 692, §1; Ord. 729, §1; Ord. 850, §1; Ord. 1124, §1)

**Sec. 19-37B. Penalty**

 Any person violating the provisions of section 19-37A of this Article shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be subject to a fine of not less than fifty ($50.00) dollars nor more than five hundred dollars ($500.00) or imprisonment in the city jail for not more than ninety (90) days, or both such fine and confinement. (Ord. 471, §§1-4; Ord. 479, §3; Ord. 692, §1; Ord. 850, §1; Ord. 1124, §1)

**Sec. 19-38A. Defrauding an inn keeper.**9

 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.

**STATE LAW REFERENCE:**

**9. Stealing involving fraud, RSMo. §570.030.**

*(Revised 07/17)*

261

 (a) 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.

(1) That he failed or refused to pay for property or services of a hotel, restaurant, inn or boardinghouse.

(2) That he gave in payment for property or services of a hotel, restaurant, inn or boardinghouse a check or negotiable paper on which payment was refused.

(3) That he left the hotel, restaurant, inn or boardinghouse with the intent to not pay for property or services.

(4) That he surreptitiously removed or attempted to remove his baggage from a hotel, inn or boardinghouse. (Ord. 692, §2)

**Sec. 19-38B. Penalty**.

 Any person violating the provisions of this Section shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be subject to a fine not less than fifteen ($15.00) nor more than five hundred dollars ($500.00) and imprisonment in the city jail for a term not to exceed three months, or by both such fines and imprisonment.. (Ord. 535, §§1-3; Ord. 692, §2.)

**Sec. 19-39. Trespassing.**

(a) **Definition *-*** As used in this Chapter, the term *trespass,* without limitation, shall mean the following acts by any person, firm or corporation:

(1) An entry upon the premises, or any part thereof, of another, including any public property in violation of a notice posted or exhibited at the main entrance to said premises or 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; or

(2) The pursuit of 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 said 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; or

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

(4) An entry 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.

 (b) **Trespassing unlawful -**It shall be unlawful for any person, firm or corporation to commit a trespass within the corporate limits of the City of Potosi upon either public or private property.

 *(Revised 4/04)*

262

 (c) **Notice effective -**Any notice, warning or protest, to be given pursuant to this Ordinance, in writing or orally, shall be deemed effective, in the case of a written notice, upon the posting or delivery thereof, and in the case of an oral notice warning or protest, at such a time as said notice warning or protest is communicated to any person, firm, or corporation violating the provisions of this Section.

 (d) **Refusal to leave premises, a violation -**In such cases where private property, to include shopping center parking lots, private alleys, private streets, and private sidewalks, but without limitation thereto, are posted with warnings or notices that said private property is closed to the public as of a particular time or day, the police department or any officer thereof of the City of Potosi, Missouri, shall communicate to any person or persons upon said premises after such time or day as specified in the notice to leave said premises, and upon the refusal of said persons to do same, or upon the return of said person or persons after being warned to leave and said person or persons having returned to the same premises on the same day, a violation of this Ordinance shall be made thereon without complaint by the owner or occupant of said private premises. (Ord. 480, §§1-4.)

**Sec. 19-40. Failure to return rental or leased property.**

 (a) The person commits the crime of failing to return leased or rented property if, with the intent to deprive the owner thereof, he purposely fails to return leased or rented personal property to the place and within the time specified in an agreement in writing providing the leasing or renting of such personal property. In addition, any person who has leased or rented personal property of another who conceals the property from the owner, or he otherwise fails, pawns, loans, abandons or gives away the leased or rented property is guilty of the crime of failing to return leased or rented property. The provisions of this Section shall apply to all forms of leasing and rental agreements, including, but not limited to, contracts which provide the consumer options to buy the leased or rented personal property, lease purchase agreements or rent to own contracts. For the purpose of determining if a violation of this Section has occurred, leasing contracts which provide options to buy the merchandise are owned by the owner of the property until such time as the owner endorses the sale of transfer of ownership of the leased property to the lessee.

 (b) It shall be prima facie evidence of the crime of failing to return leased or rented property on a person who leased or rented personal property of another willfully fails to return or make arrangements acceptable with the lessor to return the personal property to its owner at the owner's place of business within ten days after proper notice following expiration of lease or rental agreement, except that if a motor vehicle has not been returned within 72 hours after the expiration of the lease or rental agreement, such failure to return the motor vehicle shall be prima facie evidence of the intent of the crime of failing to return leased or rented property. Where the leased or rented property is a motor vehicle, if the motor vehicle has not been returned within 72 hours after the expiration of the lease or rental agreement, the lessor may notify the local law enforcement agency of the failure of the lessee to return such motor vehicle and the local law enforcement agency shall cause such motor vehicle to fit in appropriate state and local computer systems listing stolen motor vehicles. Any law enforcement officer who stops such a motor vehicle may seize the motor vehicle and notify the lessor that he may recover such motor vehicle after photographed and identification number is recovered for evidentiary purposes. if the leased or rented property is not a motor vehicle, if such property has not been returned within the ten day period described in this subsection, the owner of the property shall report the failure to return the property to the local law enforcement agency and such law enforcement agency may within five days notify the person who leased or rented the property that such person is in violation of this section and that failure to immediately to return the property may subject such person to arrest for the violation.

*(Revised 4/04)*

262.1

 (c) Proper notice by the lessor shall consist of a written demand addressed and mailed by first class mail to the lessee at the address given at the time of making the lease or rental agreement. Notice shall contain a statement that the failure to return the property may subject the lessee to criminal prosecution. Any person who has leased or rented personal property of another who destroys such property so as to avoid returning it to the owner, shall also be guilty of property damage in addition to being in violation of this section.

 (d) Venue shall lie in the city and county where the original personal property was originally rented or leased.

 (e) Failure to return leased or rented property is a misdemeanor if the property has a value of $25.00 or more, and in such case the punishment upon conviction, shall be a fine not in excess of $500.00 and imprisonment in the city jail not to exceed 30 days, or by both such fine and imprisonment. If the property involved has a value of less than $25.00, conviction thereof shall subject defendant to a fine not in excess of $100.00 and imprisonment in the city jail not to exceed 10 days, or by both such fine and imprisonment. (674, §3)

**Sec. 19-41. Passing back checks.**

 A person commits the offense of passing bad checks when:

 (a) With the purpose to defraud, the person makes, issues or passes a check or other similar sight order for the payment of money, knowing that it will not be paid by the drawee, or that there is no such drawee.

 (b) 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 drawee and fails to pay the check or sight order within ten days after receiving notice in writing that it has not been paid.

 (c) Notice in writing shall be US mail, with a proof of mailing to the address imprinted upon the check.

 (d) **Penalty**. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be subject to a fine of not less than fifteen dollars nor more than five hundred dollars or imprisonment in the city jail for not more than ninety days, or both such fine and confinement. (Ord. 851, §1)

**Secs. 19-42 to 19-44. Reserved.**

 *(Revised 4/04)*

262.2

**ARTICLE VII**

**WEAPONS AND EXPLOSIVES**

**Sec. 19-45.**  **Carrying concealed weapon on person prohibited; exception**.

 It shall be unlawful for any person within the corporate limits of the City of Potosi to wear under his/her clothes or conceal about his/her person any slingshot, brass knuckles, knuckles of lead, brass or other metals or any bowie knife, dirk or dagger or any knife resembling a bowie knife, razor or any other dangerous or deadly weapon, except that a concealed carry endorsement issued pursuant to State Statutes or a concealed carry endorsement or permit issued by another State or political subdivision of another State shall authorize the person in whose name the permit or endorsement is issued to carry concealed firearms on or about his or her person or vehicle throughout the State, and except that this Section shall be construed so as to not make illegal any action made legal by Section 220.530. This Section shall not be construed to prevent any United States, State, County or Municipal Officers from carrying such weapons as may be necessary for the proper discharge of their duties. (Ord. 1072 §1)

**Sec. 19-46. Unlawful use of weapons and brandishing a weapon.**

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

1. Carries concealed upon or about his or her person a knife, a firearm, a blackjack or any other weapon readily capable of lethal use; or

2. Sets a spring gun; or

3. Discharges or shoots a firearm into a dwelling house, a railroad train, boat, aircraft, or motor vehicle as defined in Section 302.010, RSMo., or any building or structure used for the assembling of people; or

4. Exhibits, in the presence of one (1) or more persons, any weapon readily capable of lethal use in an angry or threatening manner; or

5. Possesses or discharges a firearm or projectile weapon while intoxicated; or

6. Discharges a firearm within one hundred (100) yards of any occupied schoolhouse, courthouse or church building; or

7. Discharges or shoots a firearm at a mark, at any object or at random on, along or across a public highway or discharges or shoots a firearm into any outbuilding; or

8. Carries a firearm or any other weapon readily capable of lethal use into any church or place where people have assembled for worship, or into any election precinct on any election day, or into any building owned or occupied by any agency of the Federal Government, State Government or political subdivision thereof; or

*(Revised 10/14)*

263

9. Discharges or shoots a firearm at or from a motor vehicle, as defined in Section 301.010, RSMo., 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) Subparagraphs (1), (3), (4), (6), (7), (8), (9) and (10) of Subsection (A) of this Section shall not apply to or affect any of the following:

1. All State, County and Municipal Peace 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 Sate, 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 prisons, 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 and those persons vested by Article III of the Constitution of the United States with the judicial power of the United States, the members of the Federal judiciary;

5. Any person whose *bona fide* duty is to execute process, civil or criminal;

6. Any Federal Probation Officer;

7. Any State Probation or Parole Officer, including supervisors and members of the Board of Probation and Parole;

8. Any corporate security advisor meeting the definition and fulfilling the requirements of the regulations established by the Board of Police Commissioners under Section 84.340, RSMo.; and

9. Any coroner, deputy coroner, medical examiner or assistant medical examiner.

(c) Subparagraphs (1), (5), (8) and (10) of Subsection (A) of this Section do not apply when the actor is transporting such weapons in a non-functioning state or in an unloaded state when ammunition is not readily accessible or when such weapons are not readily accessible. Subparagraph (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. Subparagraph (10) of

*(Revised 10/14)*

264

Subsection (A) of this Section does not apply if the firearm is otherwise lawfully possessed by a person while traversing school premises for the purposes of transporting a student to or from school or possessed by an adult for the purposes of facilitation of a school-sanctioned firearm-related event.

(d) Subparagraphs (1), (8) and (10) of Subsection (A) of this Section shall not apply to any person who has a valid concealed carry endorsement issued pursuant to Sections 571.101 to 571.121, RSMo., or a valid permit or endorsement to carry concealed firearms issued by another State or political subdivision or another State.

(e) Subparagraphs (3), (4), (5), (6), (7), (8), (9) and (10) of Subsection (A) of this Section shall not apply to persons who are engaged in a lawful act of defense pursuant to Section 563.031, RSMo.

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

(g) Unlawful use of weapons shall be punished by a fine of not exceeding five hundred dollars ($500.00), or such imprisonment not exceeding ninety (90) days, or by both such fine and imprisonment. Each day any violation of this Code or of any ordinance shall continue, shall constitute a separate offense.

(h) Any person knowingly aiding or abetting any other person in the violation of Subparagraph (9) of Subsection (A) of this Section shall be subject to the same penalty as that prescribed by this Section for violations by other persons.

(i) Although a concealed carry endorsement issued pursuant to State Statutes or a concealed carry endorsement or permit issued by another State or political subdivision of another State shall authorize the person in whose name the permit or endorsement is issued to carry concealed firearms on or about his or her person or vehicle throughout the State. No driver’s license or non-driver’s license containing a concealed carry endorsement issued pursuant to State Statutes or a concealed carry endorsement or permit issued by another State or political subdivision of another State shall authorize any person to carry concealed firearms into:

1. Any Potosi Police office or station without the consent of the Chief Law Enforcement Officer in charge of that officer or station or the Chief of the Potosi Police. Possession of a firearm in a vehicle on the premises of the office or 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;

2. Within twenty-five (25) feet of any polling place on any election day. Possession of a firearm in a vehicle on the premises of the polling place 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;

*(Revised 10/14)*

264.1

3. The facility of any adult or juvenile detention or correctional institution, prison or jail. Possession of a firearm in a vehicle on the premises of any adult, juvenile detention or correctional institution, prison or jail 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;

4. Any courthouse or room or office wherein any of the courts or offices of the Potosi Municipal Division of the Washington County Circuit Court are permanently or temporarily conducting any business within the jurisdiction of such courts or offices, and such other locations in such manner as maybe specified by Supreme Court rule pursuant to the Statutes of the State of Missouri. Nothing in this Subparagraph shall preclude those persons listed in Subparagraph (1) of Subsection (B) of Section 220.530 while within their jurisdiction and on duty, those persons listed in Subparagraphs (2) and (4) of Subsection (B) of Section 220.530 or such other persons who serve in a Law Enforcement capacity for a court as may be specified by Supreme Court Rule pursuant to State Statutes from carrying a concealed firearm within any of the areas described in this Subparagraph. Possession of a firearm in a vehicle on the premises of any of the areas listed in this subparagraph 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;

5. Any meeting of the governing body of the City of Potosi, except that nothing in this Subparagraph shall preclude a member of the body holding a valid concealed carry endorsement from carrying a concealed firearm at a meeting of the body which he or she is a member. Possession of a firearm in a vehicle on the premises 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;

6. Any portion of a building owned, leased or controlled by the City of Potosi so long as any building or portion of a building in which the carrying of concealed firearms is prohibited or limited is clearly identified by signs displayed in a conspicuous place of a minimum size of eleven (11) inches by fourteen (14) inches with the writing thereon in letters of not less than one (1) inch with said sign or signs posted at the entrance to the restricted building or area (portion of the building). Except that any building used for public housing by private persons, highways or rest areas, firing ranges and private dwellings owned, leased or controlled by the City of Potosi shall be exempt from the restrictions of this Subparagraph on the carrying or possession of a firearm. Violation of this Subparagraph shall not constitute a crime and there shall be no criminal penalty for its violation. Persons violating this Subparagraph shall be denied entrance to the building, shall be ordered to leave the building and if employees of the City of Potosi, be subjected to disciplinary measure for violation of the provisions of this provision;

7. Any establishment licensed to dispense intoxicating liquor or non-intoxicating beer for consumption on the premises, which portion is primarily devoted to that purpose without the consent of the owner or manager. The provisions of this Subparagraph shall not apply to the licensee of said establishment. The provisions of this Subparagraph shall not apply to any bona fide restaurant open to the general public having dining facilities for not less than fifty (50) persons and that receives at least fifty-one percent (51%) of its gross annual income from the dining facility by the sale of food.

*(Revised 10/14)*

264.2

 This Subparagraph does not prohibit the possession of a firearm in a vehicle on the premises of the establishment and 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. Nothing in this Subparagraph authorizes any individual who has been issued a concealed carry endorsement to possess any firearm while intoxicated;

8. Any place where the carrying of a firearm is prohibited by Federal Law.

9. Any higher education institution or elementary or secondary school facility without the consent of the governing body of the higher education institution or a school official or the district school board. Possession of a firearm in a vehicle on the premises of any higher education institution or elementary or secondary school facility 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;

10. Any portion of a building used as a child care facility without the consent of the manager. Nothing in this Subparagraph shall prevent the operator of a child care facility in a family home form owing or possessing a firearm or a driver’s license or non-driver’s license containing a concealed carry endorsement;

11. Any gated area of an amusement park. Possession of a firearm in a vehicle on the premises of the amusement park 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;

12. Any church or other place of religious worship without the consent of the minister or person or persons representing the religious organization that exercises control over the place of religious worship. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle in on the premises;

13. Any private property whose owner has posted the premises as being off-limits to concealed firearms by one (1) or more signs displayed in a conspicuous place of a minimum size of eleven (11) inches by fourteen (14) inches with the writing thereon in letters of not less than one (1) inch. The owner, business or commercial lessee, manager or private business enterprise or any other organization, entity or person may prohibit persons holding a concealed carry endorsement from carrying concealed firearms on the premises and may prohibit employees, not authorized by the employer, holding a concealed carry endorsement from carrying concealed firearms on the property of the employer. If the building or the premises are open to the public, the employer of the business enterprise shall post signs on or about the premises if carrying a concealed firearm is prohibited. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as a firearm is not removed from the vehicle or brandished while the vehicle is on the premises. An employer may prohibit employees or other persons holding a concealed carry endorsement from carrying a concealed firearm in vehicles owned by the employer. Employees of the City of Potosi, other than those so permitted under Subsection (B), Subparagraphs (1), (2), (4) and (5) of Section 220.530 are prohibited from carrying a concealed firearm in vehicles owned by the City of Potosi;

*(Revised 10/14)*

264.3

14. Any hospital accessible by the public. Possession of a firearm in a vehicle on the premises of a hospital 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.

(j) Carrying of a concealed firearm in a location specified in Subparagraphs (1) to (14) of Subsection (I) of this Section by any individual who holds a concealed carry endorsement issued pursuant to the Statutes of the State of Missouri shall not be a criminal act but may subject the person to denial of access to the premises or removal from the premises. If such person refuses to leave the premises and a Peace Officer is summoned, such person may be issued a citation for an infraction by that Peace Officer or other person authorized to issue said citation, which shall require said person to appear before a Judge of the Potosi Municipal Court where said court, upon a finding that a person holding a concealed carry endorsement refused to leave said premises and a Police Officer was summoned, may impose a fine 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) and his or her endorsement to carry concealed firearms shall be subject to be suspended by the State for a period of one (1) year. If a third (3rd) citation for a similar violation is issued within one (1) year of the first (1st) citation, such person shall be fined an amount not to exceed five hundred dollars ($500.00) and be subject to have his or her concealed carry endorsement revoked by the State and such person may not be eligible for a concealed carry endorsement for a period of three (3) years. Upon conviction of charges arising from a citation issued pursuant to this Subsection, the Court shall notify the Sheriff of the County which issued the certificate of qualification for a concealed carry endorsement and the Department of Revenue.

(k) In any instance in this Section where it states that possession of a firearm in a vehicle on the premises of a stated area 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 it shall be unlawful to remove the firearm from the vehicle and brandish said firearm while still on the premises with the vehicle.

(l) A person commits the offense of brandishing a weapon when he/she shall exhibit any deadly or dangerous weapon in a rude, angry or threatening manner to any person in the City.

(m) For the purpose of this Section, the term “*deadly or dangerous weapon*” shall include, but not be limited to, any firearm, knife, dirk or dagger.

(n) Provided that the provisions of this Section shall not apply to Police Officers and other officers or persons whose duty it is to execute process or warrants or to make arrests.

(Ord. 1072 §1)

**Sec. 19-47. Physicians to report gunshot or other wounds.**

 It shall be the duty of every physician, surgeon or other person attending, treating or prescribing for any person in the city, or who resides in the city, for wound, ailment or condition caused by gun or pistol shot or knife, dagger or other instrument, within twenty-four (24) hours after the inception of the treatment to report in writing to the chief of police, giving the name, age, place of birth, residence (Street and Number), race and sex of the person, and the date of the wound or condition treated, together with the character of the injury. (Ord. 680, §3)

*(Revised 10/14)*

264.4

**Sec. 19-48. Penalty.**

 Any person violating the provisions of this Article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than five dollars nor more than five hundred dollars, imprisonment in the county jail for a term not to exceed ninety days, or by both such fine and imprisonment. (Ord. 680, §4)

**Secs. 19-49 to 19-51. Reserved.**

*(Revised 10/14)*

264.5

*(Revised 10/14)*

264.6

**ARTICLE VIII**

**REGULATING THE SALE AND USE OF FIREWORKS**

**WITHIN THE CITY**

**Sec. 19-52. Definitions.**

 As used in sections 19-52 through 19-57, unless clearly indicated otherwise, the following terms mean:

 (1) "Distributor", any person engaged in the business of selling fireworks to wholesales, jobbers, seasonal retailers, other persons, or governmental bodies that possess the necessary permits as specified in sections 320.106 to 320.161, including any person that imports any fireworks of any kind in any manner into the state of Missouri, "American Pyrotechnics Association (APA), Standard 87-1"; or subsequent standard which may amend or supersede this standard for manufacturers, importers and distributors of fireworks;

 (2) "Chemical composition", all pyrotechnic and explosive composition contained in fireworks devices as defined in American Pyrotechnics Association (APA), Standard 87-1;

 (3) "Consumer fireworks", explosive devices designed primarily to produce visible or audible effects by combustion. This term and includes aerial devices and ground devices, all of which are classified as fireworks, UNO336, 1.4G by regulation of the United States Department of Transportation, as amended from time to time, and which were formerly classified as class C common fireworks by regulation of the United States Department of Transportation.

 (4) "Discharge site", the area immediately surrounding the fireworks mortars used for an outdoor fireworks display;

 (5) "Display site", the immediate area where a fireworks display is conducted, including the discharge site, the fallout area, and the required separation distance from mortars to spectator viewing areas, but not spectator viewing areas or vehicle parking areas.

 (6) "Display fireworks", explosive devices designed primarily to produce visible or audible effects by combustion, deflagration or detonation. This term includes devices containing more than two grains (130 mg) of explosive composition intended for public display. These devices are classified as fireworks, UNO335, 1.3G by regulation of the United States Department of Transportation, as amended from time to time, and which were formerly classified as class B display fireworks by regulation of the United States Department of Transportation.

 (7) "Distributor", any person engaged in the business of selling fireworks to wholesalers, jobbers, seasonal retailers, other persons, or governmental bodies that possess the necessary permits as specified in sections 320.106 to 320.161, including any person that imports any fireworks of any kind in any manner into the state of Missouri;

 (8) "Fireworks", any composition or device for producing a visible, audible, or both visible and audible effect by combustion, deflagration, or detonation and that meets the definition of consumer, proximate, or display fireworks as set forth by 49 C.F.R. Part 171 to end, United States Department of Transportation hazardous materials regulations, and American Pyrotechnics Association 87-1 standards;

*(Revised 3/05)*

265

 (9) "Fireworks season", the period beginning on the twentieth day of June and continuing through the tenth day of July of the same year and the period beginning on the twentieth day of December and continuing through the second day of January of the next year, which shall be the only periods of time that seasonal retailers may be permitted to sell consumer fireworks;

 (10) "Jobber", any person engaged in the business of making sales of consumer fireworks at wholesale or retail, within the state of Missouri to nonlicensed buyers for use and distribution outside the state of Missouri during a calendar year from the first day of January through the thirty-first day of December.

 (11) "Licensed operator", any person who supervises, manages, or directs the discharge of outdoor display fireworks, either by manual or electrical means; who has met additional requirements established by promulgated rule and has successfully completed a display fireworks training course recognized and approved by the state fire marshal;

 (12) "Manufacturer", any person engaged in the making, manufacture, assembly or construction of fireworks of any kind within the state of Missouri.

 (13) "NFPA", National Fire Protection Association; an international codes and standards organization;

 (14) "Permanent structure", buildings and structures with permanent foundations other than tents, mobile homes, and trailers;

 (15) "Permit", the written authority of the state fire marshal issued pursuant to sections 320.106 to 320.161 to sell, possess, manufacture, discharge, or distribute fireworks, and the written authority issued by the City of Potosi for seasonal sale of fireworks by a seasonal retailer or for a seasonal public display;

 (16) "Person", any corporation, association, partnership or individual or group thereof;

 (17) "Proximate fireworks", a chemical mixture used in the entertainment industry to produce visible or audible effects by combustion, deflagration, or detonation, as defined by the most current edition of the American Pyrotechnics Association (APA), Standard 87-1, section 3.8, specific requirements for theatrical pyrotechnics.

 (18) "Pyrotechnic operator", or "special effects operator", an individual who has responsibility for pyrotechnic safety and who controls, initiates, or otherwise creates special effects for proximate fireworks and who has met additional requirements established by promulgated rules and has successfully completed a proximate fireworks training course recognized and approved by the state fire marshal;

 (19) "Sale", an exchange of articles of fireworks for money, including barter, exchange, gift or offer thereof, and each such transaction made by any person, whether as a principal proprietor, salesman, agent, association, copartnership or one or more individuals;

 (20) "Seasonal retailer", any person within the state of Missouri engaged in the business of making sales of consumer fireworks in Missouri only during a fireworks season as defined by subdivision (3) (9) of this section;

 *(Revised 3/05)*

266

 (21) "Wholesaler", any person engaged in the business of making sales of consumer fireworks to any other person engaged in the business of making sales of consumer fireworks at retail within the state of Missouri. (Ord. 639, §4; Ord. 879, §1)

**Sec. 19-53. Possession and sale of fireworks unlawful without permits; conditions on permits**

 **and sale.**

 (a) It is unlawful for any person to manufacture, sell, offer for sale, ship or cause to be shipped into the City of Potosi, Missouri except as herein provided, any item of fireworks, without first having secured the required applicable permit as a manufacturer, distributor, wholesaler, jobber or seasonal retailer from the state fire marshal, the applicable federal permit or license, and the applicable City permit. Possession of said permit is a condition precedent to manufacturing, selling or offering for sale, shipping or causing to be shipped any fireworks in the City of Potosi, Missouri, except as herein provided. This provision applies to nonresidents as well as residents of the City of Potosi, Missouri.

 (b) No City Seasonal Retailer Permit shall be issued to a person under the age of eighteen years, nor to any person not holding a similar valid permit issued by the State Fire Marshall. All permits for seasonal retailers shall be for the period beginning on the 20th of June through the 10th day of July of any calendar year.

 (c) Permits issued must be displayed in the permit holder's place of business. No permit provided for herein shall be transferable nor shall a person operate under a permit issued to another person or under a permit issued for another location. Persons operating out of multiple locations shall obtain a permit for each location.

 (d) Failure to make application for a City Permit by May thirty-first of the calendar year may result in the City's refusal to issue a license to the licensee or applicant for such calendar year.

 (e) Any false statement or declaration made on a permit application may result in the City's refusal to issue such permit to the requesting person for a period of time not to exceed three years, or the revocation of said permit, if previously issued.

 (f) The City Clerk is authorized and directed to charge a fee of One Thousand Dollars ($1,000.00) for Seasonal Retailer Permits for each sales location. Any person seeking other classification of permits, for sales not to the general public, shall be charged a fee equal to the current fee charged by the State Fire Marshall for that type of permit.

 (g) A holder of a manufacturer's permit shall not be required to have any additional permits in order to sell to distributors, wholesalers, jobbers or seasonal retailers, or to sell special display, or proximate fireworks.

 (h) A holder of a distributor's permit shall not be required to have any additional permits in order to sell to wholesalers, jobbers, seasonal retailers or to sell special display, or proximate fireworks.

 (i) A holder of a jobber's permit shall not be required to have any additional permit in order to sell consumer fireworks at retail during the fireworks season from such jobber's permanent structure.

*(Revised 3/05)*

266.1

 (j) The City Clerk may withhold permits from applicants upon evidence that all City sales and other taxes for the preceding year or years have not been paid; except, this subsection shall not apply if an applicant is pursuing any proper remedy at law challenging the amount, collection, or assessment of any sales or other tax.

 (k) Seasonal retail permit locations shall be in compliance with all applicable building and fire regulations, the applicant may be subject to a fire safety inspection by the state fire marshal based upon promulgated rules and regulations adopted by the state fire marshal, In addition:

(1) Fireworks shall not be sold or kept for sale in a place of business where paint, oils, varnishes, turpentine or gasoline or other flammable substances are kept, unless kept in a separate and distinct section of department of said place of business.

(2) All locations where fireworks are stored, displayed or sold to the public shall have at least two (2) 2-1/2 pound fire extinguishers provided.

(3) It shall be unlawful to expose fireworks to direct sunlight through glass to the merchandise displayed, except where the fireworks are in the original package. All fireworks which the public may examine shall be kept for sale in original packages, except where an attendant is on duty at all times where fireworks are offered for sale. Fireworks shall be kept in showcases out of the reach of the public when an attendant is not on duty. One or more signs reading, "FIREWORKS - NO SMOKING" shall be displayed at all places where fireworks are stored or sold in letters not less than four inches in height.

(4) Fireworks shall not be stored, kept or sold within fifty feet of any gasoline pump, gasoline filling station, gasoline bulk station, or any building in which gasoline or volatile liquids are sold in quantities in excess of one gallon. The provisions of this subsection shall not apply to stores where cleaners, paints, and oils are sold in the original containers to consumers.

(5) It shall be unlawful to permit the presence of lighted cigars, cigarettes, pipes, or any other open flame within ten twenty-five feet of where fireworks are manufactured, stored, kept, or offered for sale.

(6) Fireworks shall not be manufactured, stored, kept or sold within fifty one hundred feet of any area in which dispensing unit for ignitable liquids or gases are stored above the surface of the ground.

 (l) It is unlawful for any manufacturer, distributor, wholesaler, or jobber to sell consumer fireworks to a seasonal retailer who has not acquired an appropriate permit from the state fire marshal and the City Clerk for the current permit period. A seasonal retailer shall acquire and present the appropriate permit from the state fire marshal and City Clerk before any manufacturer, distributor, wholesaler or jobber is allowed to sell consumer fireworks to such seasonal retailer, provided that such seasonal retailer is purchasing the consumer fireworks for resale in this state.

 (m) The City Police and Fire Department personnel may conduct inspections of any premises and all portions of buildings where fireworks are stored, manufactured, kept or being offered for sale. All persons selling, offering for sale, barter, gift, exchange, or offer thereof any fireworks shall cooperate fully with the City's Police and Fire Department Personnel during any such inspection. This inspection shall be performed during normal business hours.

 *(Revised 3/05)*

266.2

 (n) The City may revoke any permit issued pursuant to this section upon evidence that the holder has violated any of the provisions of these sections.

 (o) Any authorized police, fire, or peace officer shall seize as contraband any illegal fireworks as defined pursuant to sections 320.106 to 320.161 RSMo. Such illegal fireworks seized in the enforcement of sections 320.106 to 320.161 shall be held in custody of the City Police in proper storage facilities. The person surrendering the fireworks may bring an in rem proceeding in the circuit court of the county where the fireworks were seized. Upon hearing, the circuit court may authorize the return of all or part of the confiscated fireworks or the court may authorize and direct that such contraband fireworks be destroyed. If a proceeding is not brought within thirty days, the fireworks shall be destroyed as directed by the state fire marshal. Any authorized police, fire, or peace officer shall seize, take, remove or cause to be removed, at the expense of the owner, all stocks of fireworks offered or exposed for sale, stored or held in violation of the provisions of sections 320.106 to 320.161. All costs, including any expenses incurred with the seizure, shall be the responsibility of the adjudicated party if case disposition is in the favor of the City.

 (p) Any person aggrieved by any official action of the City Clerk, or any authorized police, fire, or peace officer, affecting their licensed permit status including revocation, suspension, failure to renew a license permit, or refusal to grant a license permit may seek a determination thereon by the Board of Aldermen pursuant to the provisions of section 621.045, RSMo. All hearings before the Board of Aldermen shall be requested in writing, and shall be held within three business days of the receipt of the request by the City Clerk.

 (q) All applications shall contain the name of the applicant, the applicant's birth date, a detailed description of the location or a detailed site plan of the sale site or sites, the type of structure from which sales are to be made, provisions for fire protection, and location in feet from the nearest temporary or permanent building and the zoning classification of each site. Permits will not be issued for any site that is not zoned commercial, industrial or manufacturing. (Ord. 639, §4; Ord. 879, §1)

**Sec. 19-54. Fireworks - Items prohibited from sale and possession, exceptions.**

 (a) It is unlawful for any person to possess, sell or use within the state of Missouri, or ship into the state of Missouri, except as provided in section 320.126, any pyrotechnics commonly known as "fireworks" and defined as consumer fireworks in subdivision (2) (3) of section 320.106 other than items now or hereafter classified as fireworks UNO336, 1.4G by the United States Department of Transportation that comply with the construction, chemical composition, labeling and other regulations relative to consumer fireworks regulations promulgated by the United States Consumer Product Safety Commission and permitted for use by the general public pursuant to such commission's regulations.

 (b) No retailer, dealer, wholesaler, jobber, or seasonal retailer, or any other person shall sell, offer for sale, store, display, or have in their possession any consumer fireworks that have not been approved as fireworks UNO336, 1.4G by the United States Department of Transportation.

 (c) No jobber, wholesaler, manufacturer, or distributor shall sell to seasonal retailer, dealer, or any other person, in this state for the purpose of resale, or use, in this state, any consumer fireworks which do not have the numbers and letter "1.4G" printed within an orange, diamond-shaped label printed on or attached to the fireworks shipping carton.

*(Revised 3/05)*

266.3

 (d) This section does not prohibit a manufacturer, distributor or any other person from storing, selling, shipping or otherwise transporting special display or proximate fireworks, defined as fireworks UNO335, 1.3G/UNO431, 1.4G or UNO432, 1.4S by the United States Department of Transportation, provided they possess the proper licensing permits as specified by the state and federal law.

 (e) Matches, toy pistols, toy canes, toy guns, party poppers, or other devices in which paper caps containing twenty-five hundredths grains or less of explosive compound, provided that they are so constructed that the hand cannot come into contact with the cap when in place for use, and toy pistol paper caps which contain less than twenty-five hundredths grains of explosive mixture shall be permitted for sale and use at all times and shall not be regulated by the provisions of sections 320.106 to 320.161.

 (f) Ground salutes commonly known as "cherry bombs", "M-80's", "M-100's", "M-1000's", and various any other tubular salutes or any items described as prohibited chemical components or forbidden devices as listed in the American Pyrotechnics Association Standard 87-1 or which exceed the federal limits set for fireworks UNO336 1.4G formerly known as class C common fireworks, display fireworks UNO335, 1.3F, and proximate fireworks UNO431, 1.4F/UN 0432, 1.4S by the United States Department of Transportation for explosive composition are expressly prohibited from shipment into, manufacture, possession, sale, or use within the City of Potosi, Missouri for any consumer use. (Ord. 639, §; Ord. 879, §1)

**Sec. 19-55. Sales by and to minors prohibited; certain use of fireworks prohibited; use of**

 **certain types of fireworks prohibited; storage and display restrictions.**

 (a) It is unlawful to attempt to sell or to sell at retail any fireworks to children under the age of fourteen years except when such child is in the presence of a parent or guardian.

 (b) It is unlawful for any person under the age of sixteen to sell fireworks or work in a facility where fireworks are stored, sold, or offered for sale unless supervised by an adult.

 (c) It is unlawful to explode or ignite consumer fireworks within six hundred feet of any church, hospital, mental health facility, school, or within one hundred feet of a permanent structure any location where fireworks are stored, sold, or offered for sale.

 (d) No person shall ignite or discharge any permissible articles of consumer fireworks within or throw the same from a motorized vehicle including watercraft or any other means of transportation, except where display permit has been issued for a floating vessel or floating platform, nor shall any person place or throw any ignited article of fireworks into or at a motorized vehicle including watercraft or any other means of transportation, or at or near any person or group of people.

 (e) No person shall ignite or discharge consumer fireworks within three hundred feet of any permanent storage of ignitable liquid, gases, gasoline pump, gasoline filling station, or any nonpermanent structure where fireworks are stored, sold or offered for sale.

 (f) No person shall ignite or discharge any consumer fireworks in such a manner as to endanger other persons or property of another.

 (g) No person shall ignite or discharge any consumer fireworks at any period other than between the hours of 10:00 a.m. and 10:00 p.m. from June 20th to July 10th of each year.

 *(Revised 3/05)*

266.4

 (h) No person shall possess, throw, use, explode, ignite, shoot or discharge within the Potosi City limits any bottle rocket, rockets of all types and sizes and any other consumer fireworks with an aerial trajectory, and having a cylinder or cartridge holding a propellant charge, which cylinder or cartridge is not intended to be completely consumed before landing.

 (i) No items of explosive or pyrotechnic composition other than fireworks as defined by subsections (3), (6), and (17) of section 320.106 shall be displayed, sold, or offered for sale within the applicable permit location as identified on such permit granted by the state fire marshal.

 (j) Proximate fireworks shall not be allowed to be stored with consumer fireworks.

 (k) All storage and transportation of fireworks shall be in accordance with all federal and state rules and regulations.

 (l) Nothing in this section shall be construed to prevent permittees from demonstrating or testing fireworks. Any such demonstration or test shall require the notification and approval of the City Fire Department. (Ord. 639, §4; Ord. 879, §1)

**Sec. 19-56. Permits for public displays, requirements.**

 (a) Any person possessing or, entity, partnership, corporation, or association transporting special display or proximate fireworks or display and proximate fireworks into the state of Missouri for the purpose of resale or to conduct a special firework display shall be permitted by the state fire marshal as a distributor or manufacturer and have obtained applicable federal license or permit.

 (b) Possession and sale of special display or proximate fireworks shall be limited to a holder of a federal license or permit and a distributor or manufacturer permit issued for special fireworks displays by the state fire marshal.

 (c) Possession of special display or proximate fireworks for resale to holders of a permit for public display or proximate fireworks shall be confined to holders of a state manufacturer or distributor permit and applicable federal license or permit.

 (d) Permits for public displays for special display or proximate fireworks may be granted by the City of Potosi, Missouri, to fair associations, amusement parks, organizations, persons, firms or corporations. Such permits may be granted upon application and approval by the state fire marshal or local fire service authorities of the community where the display is proposed to be held. All applications submitted for display or proximate fireworks permits, must be submitted to the office of the state fire marshal a minimum of ten working days prior to the date of the event. The application shall be made on a form provided or approved by the state fire marshal. Every such display shall be supervised, managed, or directed by a Missouri licensed operator, or pyrotechnic operator on site pursuant to subsections 11 and 18 of section 320.106 and shall be located, discharged, or fired so as in the opinion of the chief of the fire department, after proper inspection based on the most current edition of the National Fire Protection Association standards, NFPA 1123, 1124, and 1126, to not be hazardous to any person or property. After the State permit has been issued, and a copy presented to the City Clerk, the Board of Aldermen may grant a Public Display Permit. After a permit has been granted, the sale, possession, use and distribution of fireworks for such display shall be lawful for that purpose only. A copy of all permits issued for special display or proximate fireworks displays

*(Revised 3/05)*

266.5

shall be forwarded by the permit holder to the state fire marshal's office. No permit granted hereunder shall be transferable and shall apply to only one location. No holder of a manufacturer or distributor permit shall sell, barter, or transfer display or proximate fireworks to anyone not possessing an applicable permit or license.

 (e) Possession of display or proximate fireworks shall be limited to a holder of a display or proximate fireworks permit issued by the authority having jurisdiction where the display or proximate fireworks is proposed to be held or the state fire marshal or holder of a state manufacturer or distributor permit and applicable federal license or permit.

 (f) Before issuing any permit for a special display or proximate fireworks display shall be issued, the municipality, fair association, amusement park, organization, firm, persons, or corporation making application therefore shall furnish proof of financial responsibility in an amount established by promulgated rule to the permitting authority in order to satisfy claims for damages to property or personal injuries arising out of any act or omission on the part of such person, firm or corporation or any agent or employee thereof.

 (g) Any establishment where proximate fireworks are to be discharged shall be inspected by the state fire marshal or local fire department having jurisdiction for compliance with NFPA 101 Life Safety Code or equivalent nationally recognized code in relation to means of egress, occupancy load, and automatic sprinkler and fire alarm systems. All permits issued will be forwarded to the state fire marshal by the permit holder. Permits will be issued in the same manner as those required in section 320.126. (Ord. 639, §4; Ord. 648, §3; Ord. 879, §1)

**Sec. 19-57. Violation a misdemeanor.**

 Any person violating any provision of sections 19-52 to 19-61 shall be guilty of a misdemeanor, punishable upon conviction by a fine of not less than fifty dollars ($50.00) nor more than five hundred dollars ($500.00), or by confinement in jail for not more than ninety days, or by both fine and confinement. Each occurrence or day that a violation exists shall be a separate offense.

 (Ord. 639, §5-7; Ord. 879, §1)

**Secs. 19-58 to 19-64. Reserved.**

*(Revised 11/11)*

266.6

**ARTICLE IX**

**CURFEW FOR MINORS**

**Sec. 19-65. Children on streets at night.**

 It shall be unlawful for any person under seventeen years of age to be or remain upon any street or alley or other public place in the City after 11:00 p.m. unless such person is accompanied by a parent or guardian, or other persons having custody of such minor or unless in the performance of duty directed by such parent or guardian or other person having custody or unless such person is in lawful employment making it necessary to be in such places after 11:00 p.m. (Ord. 649, §1)

**Sec. 19-66. Permitting children to violate curfew.**

 It shall be unlawful for anyone having the legal care and custody of any person, as described above to allow or permit such person to go or be upon any public street, alley or other public place in the city in the nighttime as restricted in the preceding section, except in case of necessity. (Ord. 649, §2)

**Sec. 19-67. Detaining child.**

 Every member of the police force while on duty is hereby authorized to detain any such minor willfully violating the provisions of the first section of this Ordinance until the parent or guardian of the child shall take him or her into custody; but such officer shall immediately upon taking custody of the child communicate with the parent or guardian. (Ord. 649, §3)

**Sec. 19-68. Delinquent children.**

 If it shall appear that any child taken into custody for a violation of the first section of this Ordinance is growing up in vagrancy, or is incorrigible, for lack of proper parental care or has no home, proper proceedings shall be taken to have such child placed in the care of Missouri Division of Family Services as provided by statute. (Ord. 649, §4)

**Secs. 19-69 to 19-73. Reserved.**

267

268