

STURGEON CITY CODE

CHAPTER 5: OFFENCES

[All provisions of Chapter 5 are derived from Ord. _____, Effective _____, 2010, New]

Article I. Offences Against Property

Section 5.010 Tampering

1. A person commits the offense of tampering if he:
 - a. Tamper with property of another for the purpose of causing substantial inconvenience to that person or to another; or
 - b. Unlawfully rides in or upon another's automobile, airplane, motorcycle, motorboat or other motor-propelled vehicle; or
 - c. Tamper or makes connection with property of a utility; or
 - d. Tamper with, or causes to be tampered with, any meter or other property of an electric, gas, or water utility, the effect of which tamper is either:
 - (1) To prevent the proper measuring of electric, gas, or water service; or
 - (2) To permit the diversion of any electric, gas, or water service.

2. In any prosecution under subparagraph (d) of Subsection (1), proof that a meter or any other property of a utility has been tampered with, and the person or persons accused received the use or direct benefit of the electric, gas, or water service, with one (1) or more of the effects described in Subparagraph (d) of Subsection (1), shall be sufficient to support an inference which the trial court may submit to the trier of fact, from which the trier of fact may conclude that there has been a violation of such Subparagraph by the person or persons who use or receive the direct benefit of the electric, gas, or water service.

State Law Reference – As to the conditions which make this offense a felony, see RSMo. §569.090.3.

Section 5.015 Property Damage

A person commits the offense of property damage if he knowingly damages property of another, or he damages property for the purpose of defrauding an insurer.

Section 5.020 Trespass

A person commits the offense of trespass if he enters or remains unlawfully upon real property of another, without license or privilege.

Section 5.030 Laser Beam Disturbance

1. It shall be unlawful for any person to focus, point or shine a laser beam directly or indirectly on another person in such a manner as is intended to harass or annoy said person.
2. Any violation of this ordinance shall subject the violator to summons to municipal court and upon conviction shall be punishable by a fine of up to \$500.00 and costs, or ninety days imprisonment, or both a fine and

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imprisonment.

Section 5.040 Firearms in City Building Prohibited

1. No person who has been issued a concealed carry endorsement by the Missouri director of revenue under Section 571.107RSMo or who has been issued a valid permit or endorsement to carry concealed firearms issued by another state or political subdivision of another state, shall, by authority of that endorsement or permit, be allowed to carry a concealed firearm or to openly carry a firearm in any building or portion of a building owned, leased or controlled by the city.

2. Signs shall be posted at each entrance of a building entirely owned, leased or controlled by the city stating that carrying of firearms is prohibited. Where the city owns, leases or controls only a portion of a building, signs shall be posted at each entrance to that portion of the building stating that carrying of firearms is prohibited.

3. This section shall not apply to buildings used for public housing by private persons, highways or rest areas, firing ranges, or private dwellings owned, leased or controlled by the city.

4. Any person violating this section may be denied entrance to the building or ordered to leave the building. Any city employee violating this section may be disciplined. No other penalty shall be imposed for a violation of this section.

5. No person who has been issued a certificate of qualification which allows the person to carry a concealed firearm before the director of revenue begins issuing concealed carry endorsements in July, 2004, shall, by authority of that certificate, be allowed to carry a concealed firearm or to openly carry a firearm in any building or portion of a building owned, leased or controlled by the city.

Section 571.030.1(8) RSMo, with certain exceptions, prohibits carrying a firearm into any building owned or occupied by any city. House Bill 349 amended this statute to exempt from this prohibition, any person who has a valid concealed carry endorsement issued by the Missouri director of revenue or a valid permit or endorsement to carry concealed firearms issued by another state. Section 571.094.20(6) RSMo, however, authorizes cities to pass ordinances to prohibit or limit the carrying of concealed firearms into city buildings by persons issued a concealed carry endorsement by the Missouri director of revenue. Section 21.750.3 RSMo is authority for cities to prohibit persons with concealed carry endorsements from openly carrying firearms into city buildings. Ordinances passed under this provision are not allowed to impose "criminal penalties" for violation. Penalties are limited to denying entry to the building or requiring the violators to leave the building. Those who refuse to leave may be issued a citation and prosecuted under state law (§571.094.21). The statute also allows city employees who violate the ordinance to be disciplined.

Section 5.050 Shoplifting, Stealing

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

Section 5.060 Breaking & Entering

A person commits the crime of burglary in the first degree if he knowingly enters unlawfully or knowingly remains unlawfully in a building or inhabitable structure for the purpose of committing a crime therein, and when in effecting entry or while in the building or inhabitable structure or in immediate flight therefrom, he or another participant in the crime:

1. Is armed with explosives or a deadly weapon or;

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2. Causes or threatens immediate physical injury to any person who is not a participant in the crime; or
 3. There is present in the structure another person who is not a participant in the crime.
- Burglary in the first degree is a class B felony.

Section 5.070 Possession of Burglary Tools

A person commits the crime of possession of burglar's tools if he possesses any tool, instrument or other article adapted, designed or commonly used for committing or facilitating offenses involving forcible entry into premises, with a purpose to use or knowledge that some person has the purpose of using the same in making an unlawful forcible entry into a building or inhabitable structure or a room thereof.

Possession of burglar's tools is a class D felony.

Section 5.080 Cable TV Theft

A person commits the crime of theft of cable television service if he:

1. Knowingly obtains or attempts to obtain cable television service without paying all lawful compensation to the operator of such service, by means of artifice, trick, deception or device; or
2. Knowingly assists another person in obtaining or attempting to obtain cable television service without paying all lawful compensation to the operator of such service; or
3. Knowingly connects to, tampers with or otherwise interferes with any cables, wires or other devices used for the distribution of cable television if the effect of such action is to obtain cable television without paying all lawful compensation therefor; or
4. Knowingly sells, uses, manufactures, rents or offers for sale, rental or use any device, plan or kit designed and intended to obtain cable television service in violation of this section; or
5. Knowingly attempts to connect to, tamper with, or otherwise interfere with any cable television signal, cables, wires, devices, or equipment, which is used for the distribution of cable television and which results in the unauthorized use of a cable television system or the disruption of the delivery of the cable television service. Nothing in this section shall be construed to prohibit, restrict, or otherwise limit the purchase, sale, or use of any products, including without limitation hardware, software, or other items, intended to provide services and features to a customer who has lawfully obtained a connection from a cable company.

Theft of cable television service is a class C felony if the value of the service appropriated is five hundred dollars or more or if the theft is a violation of subdivision (5) of subsection 1 of this section, otherwise theft of cable television services is a class A misdemeanor.

Any cable television operator may bring an action to enjoin and restrain any violation of the provisions of this section or bring an action for conversion. In addition to any actual damages, an operator may be entitled to punitive damages and reasonable attorney fees in any case in which the court finds that the violation was committed willfully and for purposes of commercial advantage. In the event of a defendant's verdict the defendant may be entitled to reasonable attorney fees.

The existence on the property and in the actual possession of the accused of any connection wire, or conductor, which is connected in such a manner as to permit the use of cable television service without the same being reported for payment to and specifically authorized by the operator of the cable television service shall be sufficient to support an inference which the trial court may submit to the trier of fact, from which the trier of fact may conclude that

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the accused has committed the crime of theft of cable television service.

If a cable television company either:

1. Provides unsolicited cable television service; or
2. Fails to change or disconnect cable television service within ten days after receiving written notice to do so by the customer, the customer may deem such service to be a gift without any obligation to the cable television company from ten days after such written notice is received until the service is changed or disconnected.

Nothing in this section shall be construed to render unlawful or prohibit an individual or other legal entity from owning or operating a video cassette recorder or devices commonly known as a satellite receiving dish for the purpose of receiving and utilizing satellite-relayed television signals for his own use.

As used in this section, the term "cable television service" includes microwave television transmission from a multipoint distribution service not capable of reception by conventional television receivers without the use of special equipment.

Section 5.090 Odometer Fraud

A person is guilty of attempt to commit odometer fraud in the first degree or odometer fraud in the second degree when, with the purpose of committing the offense, he does any act which is a substantial step towards the commission of the offense. A "substantial step" is conduct which is strongly corroborative of the firmness of the actor's purpose to complete the commission of the offense.

It is no defense to a prosecution under this section that the offense attempted was, under the actual attendant circumstances, factually or legally impossible of commission, if such offense could have been committed had the attendant circumstances been as the actor believed them to be.

An attempt to commit odometer fraud in the first or second degree is a class C misdemeanor.

Article II. Noise Offenses

Section 5.110 Peace Disturbance Definitions

For the purposes of this Article the following words and/or phrases will have the meaning indicated below.

1. **Private Property:** Shall mean any place which at the time is not open to the public. It includes property which is owned publicly or privately.
2. **Property of Another:** Shall mean any property in which the actor does not have a possessory interest.
3. **Public Place:** Shall mean any place which at the time is open to the public. It includes property which is owned publicly or privately.
4. **Separate Premises:** Shall mean if a building or structure is divided into separately occupied units, such units are separate premises.

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Section 5.120 Peace Disturbance

A person shall commit the crime of peace disturbance if:

1. He unreasonably and knowingly disturbs or alarms another person or persons by:
 - a. Loud noise; or
 - b. Offensive language addressed in a face-to-face manner to a specific individual and uttered under circumstances that are likely to produce an immediate violent response from a reasonable recipient; or
 - c. Threatening to commit a felonious act against any person under circumstances that are likely to cause a reasonable person to fear that such threat may be carried out; or
 - d. Fighting; or
 - e. Creating a noxious and offensive odor;
2. He is in a public place or on private property of another without consent and purposely causes inconvenience to another person or persons by unreasonably and physically obstructing:
 - a. Vehicular or pedestrian traffic; or
 - b. The free ingress or egress to or from a public or private place.

Section 5.130 Noise Disturbance

1. It shall be unlawful for any individual to play any radio, television, or any device made to play cassettes, records, compact disc, audio and/or video tapes, loud speaker or any similar device so that it emits a sound that can be heard 100 feet or more from the device. This includes any of the aforementioned devices that are mounted in motor vehicles, boats, trucks, bicycles, carried on one's person or placed in a building, to include private residences, apartments, places of business and similar structures.

2. A Public Safety Officer may issue a Uniform Traffic Ticket (UTT) to the individual responsible for any such device emitting sound in violation of subsection A. above including the driver of a motor vehicle, or the first registered owner of the vehicle, the owner of record or a resident of a residence, or apartment, the proprietor of a business or the person who is in physical control of any such device.

3. In the event that any such device is located in a motor vehicle, boat, bicycle, ATV, or other means of conveyance and the owner or operator cannot be located, or denies ownership, a Public Safety Officer may tow the motor vehicle, boat, bicycle, ATV, or other means of conveyance at the owner's expense.

4. A Public Safety Officer may seize any motor vehicle, boat, truck, bicycle, or any other device and have same towed and stored, at the owners expense, for a period not to exceed seventy-two (72) hours, and which was used in violation of the noise disturbance ordinance by any individual who previously has been convicted or plead guilty, or who has a noise disturbance charge pending.

5. This ordinance shall not apply to licensed carnivals, religious services, rodeos, noise emitted by machinery during its normal operation, emergency vehicles or noise emitted under similar circumstances, activities associated with business or commercial locations in an appropriately zoned district where the activities are inside the structure.

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6. Permits Authorized: Any individual, business and organization may apply for a permit that will allow for an outside event where noise generated may otherwise be in violation of this ordinance. The office of the City Manager or his designee in his or her discretion may issue such permit. Such permit shall identify the applicant and duration of the event. No fee shall be charged for any such permit.”

Article III. Identity Offenses

Section 5.210 Identity Theft

1. A person commits the offense of identity theft if he or she knowingly and with the intent to deceive or defraud obtains, possesses, transfers, uses, or attempts to obtain, possess, transfer or use, one or more means of identification not lawfully issued for his or her use. Any person accused of identity theft may be prosecuted in the municipal court provided:

- a. the offense was committed wholly or in partly within the City, or
 - b. the victim resides in the City, or
 - c. the property obtained, or attempted to be obtained, was located in the City.
2. The term **means of identification** as used in this section includes, but is not limited to, the following:
- a. Social Security numbers;
 - b. Drivers license numbers;
 - c. Checking account numbers;
 - d. Savings account numbers;
 - e. Credit card numbers;
 - f. Debit card numbers;
 - g. Personal identification (PIN) code;
 - h. Electronic identification numbers;
 - i. Digital signatures;
 - j. Any other numbers or information that can be used to access a person's financial resources;
 - k. Biometric data;
 - l. Fingerprints;
 - m. Passwords;
 - n. Parent's legal surname prior to marriage;

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- o. Passports; or
 - p. Birth certificates.
3. In addition to the provisions of subsection 3 of this section, the court may order that the defendant make restitution to any victim of the offense. Restitution may include payment for any costs, including attorney fees, incurred by the victim:
- a. in clearing the credit history or credit rating of the victim; and
 - b. in connection with any civil or administrative proceeding to satisfy any debt, lien, or other obligation of the victim arising from the actions of the defendant.
4. This Section shall not apply to the following activities:
- a. A person obtains the identity of another person to misrepresent his or her age for the sole purpose of obtaining alcoholic beverages, tobacco, going to a gaming establishment, or another privilege denied to minors;
 - b. A person obtains means of identification or information in the course of a bona fide consumer or commercial transaction;
 - c. A person exercises, in good faith, a security interest or right of offset by a creditor or financial institution;
 - d. A person complies, in good faith, with any warrant, court order, levy, garnishment, attachment, or other judicial or administrative order, decree, or directive, when any party is required to do so.
5. Any person convicted of committing an offense established by this Section shall be subject to punishment as follows:
- a. If the offense does not result in the theft or appropriation of credit, money, goods, services, or other property, the person shall be punished by a fine not to exceed \$500.00, by imprisonment not to exceed 90 days, or both.
 - b. If the offense results in the theft or appropriation of credit, money, goods, services or other property, the person shall be punished by a fine not to exceed \$1,000.00, by imprisonment not to exceed 90 days, or both.
6. Nothing herein contained shall be construed as preventing or otherwise limiting a person's right to recovery of civil damages and attorneys fees in an action brought under section 570.223 of the Revised Statutes of the State of Missouri

Section 5.220 Trafficking In Stolen Identities

- 1. A person commits the offense of trafficking in stolen identities when such person manufactures, sells, transfers, purchases, or possesses with intent to sell or transfer means of identification or identifying information for the purpose of committing identity theft.
- 2. Unauthorized possession of means of identification of five or more separate persons, shall be evidence

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that the identities are possessed with intent to manufacture, sell, or transfer means of identification or identifying information for the purpose of committing identity theft. . In determining possession of five or more identification documents of the same person or possession of identifying information of five or more separate persons for the purposes of evidence pursuant to this subsection, the following do not apply:

- a. The possession of his or her own identification documents;
 - b. The possession of the identification documents of a person who has consented to the person at issue possessing his or her identification documents.
3. This Section shall not apply to the following activities:
- a. A person obtains the identity of another person to misrepresent his or her age for the sole purpose of obtaining alcoholic beverages, tobacco, going to a gaming establishment, or another privilege denied to minors;
 - b. A person obtains means of identification or information in the course of a bona fide consumer or commercial transaction;
 - c. A person exercises, in good faith, a security interest or right of offset by a creditor or financial institution;
 - d. A person complies, in good faith, with any warrant, court order, levy, garnishment, attachment, or other judicial or administrative order, decree, or directive, when any party is required to do so.

Section 5.230 False Impersonation

1. A person commits the offense of false impersonation if such person:
 - a. Falsely represents himself or herself to be a public servant with purpose to induce another to submit to his or her pretended official authority or to rely upon his or her pretended official acts, and
 - (1) Performs an act in that pretended capacity; or
 - (2) Causes another to act in reliance upon his or her pretended official authority; or
 - b. Falsely represents himself or herself to be a person licensed to practice or engage in any profession for which a license is required by the laws of this state with purpose to induce another to rely upon such representation, and
 - (1) Performs an act in that pretended capacity; or
 - (2) Causes another to act in reliance upon such representation; or
 - c. Upon being arrested, falsely represent himself or herself, to a law enforcement officer, with the first and last name, date of birth, or Social Security number, or a substantial number of identifying factors or characteristics as that of another person that results in the filing of a report or record of arrest or conviction for an infraction, misdemeanor, or felony that contains the first and last name, date of birth, and Social Security number, or a substantial number of identifying factors or characteristics to that of such other person as to cause such other person to be identified as the actual person arrested or convicted.

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2. If a violation of subdivision © of subsection 1 of this Section is discovered prior to any conviction of the person actually arrested for an underlying charge, then the prosecuting attorney, bringing any action on the underlying charge, shall notify the court thereof, and the court shall order the false-identifying factors ascribed to the person actually arrested as are contained in the arrest and court records amended to correctly and accurately identify the defendant and shall expunge the incorrect and inaccurate identifying factors from the arrest and court records.

3. If a violation of subdivision © of subsection 1 of this section is discovered after any conviction of the person actually arrested for an underlying charge, then the prosecuting attorney shall file a motion in the underlying case with the court to correct the arrest and court records after discovery of the fraud upon the court. The court shall order the false identifying factors ascribed to the person actually arrested as are contained in the arrest and court records amended to correctly and accurately identify the defendant and shall expunge the incorrect and inaccurate identifying factors from the arrest and court records.

4. Any person who is the victim of a false impersonation and whose identity has been falsely reported in arrest or conviction records may move for expungement and correction of said records under the procedures set forth in section 610.123, R.S.Mo. Upon a showing that a substantial number of identifying factors of the victim was falsely ascribed to the person actually arrested or convicted, the court shall order the false identifying factors ascribed to the person actually arrested as are contained in the arrest and court records amended to correctly and accurately identify the defendant and shall expunge the incorrect and inaccurate factors from the arrest and court records.

5. Any person convicted of committing an offense established by this Section shall be subject to punishment by a fine not to exceed \$500.00, by imprisonment not to exceed 90 days, or both, unless the person represents himself to be a law enforcement officer, in which case any fine imposed shall not exceed \$1,000.00.

Article IV. Alcohol and Drug Offenses

Section 5.310 Intoxication or Use of Intoxicating Substance in Public Place

1. A person commits the offense of public intoxication when he/she is in a public place in a state of drunkenness or intoxication which has been caused or induced by consumption of alcoholic beverage or the use of a narcotic.

2. A person commits the offense of public use of an intoxicating substance when he/she shall drink or otherwise consume any alcoholic beverage, intoxicating liquor, or use any controlled substance or narcotic drug in any street, public park or other public place, except designated areas.

Section 5.320 Driving While Intoxicated

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

Section 5.330 Open Container or Consumption of Alcoholic Beverage in Public Places

1. It shall be unlawful for any person to:

a. Possess any alcoholic beverage on any street, sidewalk or city parking facility unless such alcoholic beverage is in the original container and the seal is unbroken.

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- b. Consume any alcoholic beverage on any street, sidewalk or city parking facility.

The definition of "alcoholic beverages" contained in Chapter 4 shall apply to this section.

This section shall not apply to the possession or consumption of alcoholic beverages served by a licensed establishment provided that the restrictions of this code are observed.

The city council may temporarily exclude any street from the provisions of this section in connection with the temporary closing of the street for a special event.

2. Possess any alcoholic beverage while riding in a motor vehicle unless such alcoholic beverage is in the original container and the seal is unbroken.

Section 5.340 Driving with Excessive Blood Alcohol Content

1. No person shall drive a motor vehicle when the person has eight-hundredths (0.08) of one percent or more by weight of alcohol in his blood. As used in this section, percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred (100) milliliters of blood and may be shown by chemical analysis of the person's blood, breath, saliva or urine. For the purposes of determining the alcoholic contents of a person's blood under this section, the test shall be conducted in accordance with the provisions of sections 577.020 to 577.041 of the Revised Statutes of Missouri. *State law reference – Similar provisions, RSMo. 577.012.*

2. Any person who violates the provisions of this section is guilty of a misdemeanor and upon conviction, shall be punished as follows:

- a. For the first offense, by a fine of not less than fifty dollars (\$50.00) and not more than five hundred dollars (\$500.00), or by imprisonment in jail for not more than ninety (90) days, or by both such fine and imprisonment;
- b. For the second offense within a three-year period, by a fine of not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00), and by imprisonment for a term of not less than five (5) days and not more than ninety (90) days, or by both such fine and imprisonment;
- c. For the third and subsequent offenses within a three-year period, by a fine of not less than two hundred fifty dollars (\$250.00) and not more than five hundred dollars (\$500.00), and by imprisonment in jail for a term of not less than fifteen (15) days and not more than ninety (90) days, or by both such fine and imprisonment.

3. Evidence of prior convictions shall be heard and determined by the trial court, out of the hearing of the jury prior to the submission of the case to the jury, and the court shall enter its findings thereon.

4. Any person convicted of an intoxication-related offense shall have a judgment entered against that person in favor of the Spinal Cord Injury Fund in the amount of twenty-five dollars (\$25).

- a. Judgments collected pursuant to this section shall be paid into the state treasury to the credit of the Spinal Cord Injury Fund created in RSMo. 304.027. Any court clerk receiving funds pursuant to judgments entered pursuant to this section shall collect and disburse such amounts as provided in sections 488.010 to 488.020, RSMo.

- b. As used in this section, an "intoxication-related traffic offense" is driving while intoxicated, driving with excessive blood alcohol content, driving under the influence of drugs, or assault while intoxicated pursuant to Section 18-15. *State law reference – Similar provisions, RSMo. 304.027,*

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577.023.

Section 5.350 Alcoholic Beverage Limitations on Public Property – Mandatory Curfew – Penalty

1. Possession and consumption of alcoholic beverages is prohibited on any City owned property, except as otherwise specified by ordinance between 9:00 p. m. and 10:30 a. m.
2. The use of alcoholic beverages is allowed by individuals over twenty-one (21) years of age, only in areas designated and marked with signs by the Sturgeon City Council in the City Parks:
3. There will be no trespassing on any City property except as otherwise specified by ordinance, between 10:30 p. m. and 6:00 a. m.;
4. The Sturgeon City Police be instructed to enforce this Section year around, also be it so noted that inadvertent removal of the signs will not nullify this Section, and;

Section 5.360 Marijuana

1. The possession of marijuana in the amount of thirty-five (35) grams or less is unlawful, except in the usual course of business or practice, or in the performance of their official duties by persons exempted by State Law.

Section 5.370 Drug Paraphernalia

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.

A person who violates this section is guilty of a class A misdemeanor, unless the person uses, or possesses with intent to use, the paraphernalia in combination with each other to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues in which case the violation of this section is a class D felony.

Section 5.380 Misrepresentation of Age to Obtain Beer or Liquor

No person under the age of twenty-one (21) years shall represent that he/she has attained the age of twenty-one (21) years for the purpose of purchasing, asking for, or in any manner receiving any intoxicating liquor or non-intoxicating beer. No person under the age of twenty-one (21) years shall purchase or attempt to purchase or have in his/her possession any intoxicating beer or liquor or non-intoxicating beer. *Cross Reference – Purchase or possession of alcoholic beverages by minors prohibited, §600.150.*

Section 5.390 Minor in Possession

Any person under the age of twenty-one years, who purchases or attempts to purchase, or has in his or her possession, any intoxicating liquor as defined in section 311.020 or who is visibly in an intoxicated condition as defined in section 577.001, RSMo, or has a detectable blood alcohol content of more than two-hundredths of one percent or more by weight of alcohol in such person's blood is guilty of a misdemeanor. For purposes of prosecution under this section or any other provision of this chapter involving an alleged illegal sale or transfer of intoxicating liquor to a person under twenty-one years of age, a manufacturer-sealed container describing that there is intoxicating liquor therein need not be opened or the contents therein tested to verify that there is intoxicating liquor in such container. The alleged violator may allege that there was not intoxicating liquor in such container, but the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is

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intoxicating liquor therein contains intoxicating liquor.

For purposes of determining violations of any provision of this chapter, or of any rule or regulation of the supervisor of alcohol and tobacco control, a manufacturer-sealed container describing that there is intoxicating liquor therein need not be opened or the contents therein tested to verify that there is intoxicating liquor in such container. The alleged violator may allege that there was not intoxicating liquor in such container, but the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is intoxicating liquor therein contains intoxicating liquor.

Any person under the age of twenty-one years who purchases or attempts to purchase, or has in his or her possession, any intoxicating liquor, or who is visibly in an intoxicated condition as defined in section 577.001, RSMo, shall be deemed to have given consent to a chemical test or tests of the person's breath, blood, saliva, or urine for the purpose of determining the alcohol or drug content of the person's blood. The implied consent to submit to the chemical tests listed in this subsection shall be limited to not more than two such tests arising from the same arrest, incident, or charge. Chemical analysis of the person's breath, blood, saliva, or urine shall be performed according to methods approved by the state department of health and senior services by licensed medical personnel or by a person possessing a valid permit issued by the state department of health and senior services for this purpose. The state department of health and senior services shall approve satisfactory techniques, devices, equipment, or methods to be considered valid and shall establish standards to ascertain the qualifications and competence of individuals to conduct analyses and to issue permits which shall be subject to termination or revocation by the state department of health and senior services. The person tested may have a physician, or a qualified technician, chemist, registered nurse, or other qualified person at the choosing and expense of the person to be tested, administer a test in addition to any administered at the direction of a law enforcement officer. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test taken at the direction of a law enforcement officer. Upon the request of the person who is tested, full information concerning the test shall be made available to such person. Full information is limited to the following:

1. The type of test administered and the procedures followed;
2. The time of the collection of the blood or breath sample or urine analyzed;
3. The numerical results of the test indicating the alcohol content of the blood and breath and urine;
4. The type and status of any permit which was held by the person who performed the test;
5. If the test was administered by means of a breath-testing instrument, the date of performance of the most recent required maintenance of such instrument.

Full information does not include manuals, schematics, or software of the instrument used to test the person or any other material that is not in the actual possession of the state. Additionally, full information does not include information in the possession of the manufacturer of the test instrument.

The provisions of this section shall not apply to a student who:

1. Is eighteen years of age or older;
2. Is enrolled in an accredited college or university and is a student in a culinary course;
3. Is required to taste, but not consume or imbibe, any beer, ale, porter, wine, or other similar malt or fermented beverage as part of the required curriculum; and

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4. Tastes a beverage under subdivision (3) of this subsection only for instructional purposes during classes that are part of the curriculum of the accredited college or university.

The beverage must at all times remain in the possession and control of an authorized instructor of the college or university, who must be twenty-one years of age or older. Nothing in this subsection may be construed to allow a student under the age of twenty-one to receive any beer, ale, porter, wine, or other similar malt or fermented beverage unless the beverage is delivered as part of the student's required curriculum and the beverage is used only for instructional purposes during classes conducted as part of the curriculum.

Article V. Public Order

Section 5.410 Loitering – Definitions

For the purposes of code the following words and/or phrases will have the meaning indicated below.

1. **Loitering:** Shall mean remaining idle in essentially one (1) location and shall include the concept of spending time idly; to be dilatory; to linger; to stay; to saunter; to delay; to stand around and shall also include colloquial expression “hanging around” or “hanging out”.
2. **Public Place:** Shall mean any place to which the general public has access and a right to resort for business, entertainment, or other lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. It shall also include the front or immediate area of any store, shop, restaurant, tavern or other place of business and also public grounds, areas or parks.

Section 5.420 Indecent Exposure

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

Section 5.430 Disorderly Conduct Prohibited

1. **Unlawful Assembly.** A person commits the offense of unlawful assembly if he/she knowingly assembles with six (6) or more other persons and agrees with such persons to violate any of the ordinances of this City, or criminal laws of the State or of the United States with force or violence.
2. **Rioting.** A person commits the offense of rioting if he/she knowingly assembles with six (6) or more other persons and agrees with such persons to violate any of the ordinances of this City, or criminal laws of the State or of the United States with force or violence, and thereafter, while still so assembled, does violate any of said laws with force or violence.
3. **Refusal to Disperse.** A person commits the offense of refusal to disperse if, being present at the scene of an unlawful assembly, or at the scene of a riot, he/she knowingly fails or refuses to obey the lawful command of a *Law Enforcement Officer to depart from the scene of such unlawful assembly or riot.* (RSMo. §§574.040 – 574.060)

Section 5.440 Loitering – Police Order to Disperse – Penalty

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

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- a. Obstruct any public street, public highway, public sidewalk or any other public place or building by hindering or impeding or tending to hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians;
- b. Commit in or upon any public street, public highway, public sidewalk or any other public place or building any act or thing which is an obstruction or interference to the free and uninterrupted use of property or with any business lawfully conducted by anyone in or upon facing or fronting on any such public street, public highway, public sidewalk or any other public place or building, all of which prevents the free and uninterrupted ingress, egress, and regress, therein, thereon and thereto.

2. When any person causes or commits any of the conditions enumerated in Subsection (A) herein, a Police Officer or any Law Enforcement Officer shall order that person to stop causing or committing such conditions and to move on or disperse. Any person who fails or refuses to obey such orders shall be guilty of a violation of this section.

Section 5.450 Exemptions

Sections 5.090 through 5.095 shall not be construed to suppress the right to lawful assembly, picketing, public speaking or other lawful means of expressing public opinion.

Section 5.460 Hours that City of Sturgeon Park and Fairground Property and Cemetery Property is Closed to the Public.

Except as provided below, it shall be unlawful for any person to be inside the premises of any City park or any City fairground between the hours of midnight and 6:00 a.m. of any day. This section shall not apply to the following persons: (1) Any City employee while performing his or her City duties; and (2) Any person or any persons who are part of a group or organization given prior written authorization by the mayor or the president of the parks and trees board to be inside the premises of a specified City park or specified City fairground during a specified period of time on a specified day or specified days, for a specified purpose; and (3) Any person or any persons who are part of a group or organization given prior written authorization by a City official, including the City Clerk, to be inside the premises of a specified City park or specified City fairground during a specified period of time on a specified day or specified days because of a rental agreement, a specified purpose or otherwise. Notice of the general city park and fairground closure provision may be given by the posting of one or more signs.

(Ord. 756, Sec. 1, Approved and Effective November 28, 2011)

Article VI. Offenses Against Persons

Section 5.510 Assault

1. A person commits the offense of assault in the third degree if:
 - a. He/she attempts to cause or recklessly causes physical injury to another person; or
 - b. With criminal negligence he/she causes physical injury to another person by means of a deadly weapon; or
 - c. He/she purposely places another person in apprehension of immediate physical injury; or

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- d. He/she recklessly engages in conduct which creates a grave risk of death or serious physical injury to another person; or
- e. He/she knowingly causes physical contact with another person knowing the other person will regard the contact as offensive or provocative.

Section 5.520 Affray

It is unlawful for two or more persons, in any place in the city (including within any private residence) to voluntarily or by agreement engage in any fight or use any blows or violence toward the other or others in any angry or quarrelsome manner. (*RSMo. §565.070*)

Section 5.530 Violate Order of Protection

When a law enforcement officer has probable cause to believe that a party, against whom a protective order has been entered and who has notice of such order entered, has committed an act of abuse in violation of such order, the officer shall arrest the offending party-respondent whether or not the violation occurred in the presence of the

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arresting officer. Refusal of the victim to sign an official complaint against the violator shall not prevent an arrest under this subsection.

Section 5.560 Supplying Alcohol to a Minor

Any licensee under this chapter, or his employee, who shall sell, vend, give away or otherwise supply any intoxicating liquor in any quantity whatsoever to any person under the age of twenty-one years, or to any person intoxicated or appearing to be in a state of intoxication, or to a habitual drunkard, and any person whomsoever except his parent or guardian who shall procure for, sell, give away or otherwise supply intoxicating liquor to any person under the age of twenty-one years, or to any intoxicated person or any person appearing to be in a state of intoxication, or to a habitual drunkard, shall be deemed guilty of a misdemeanor, except that this section shall not apply to the supplying of intoxicating liquor to a person under the age of twenty-one years for medical purposes only, or to the administering of such intoxicating liquor to any person by a duly licensed physician. No person shall be denied a license or renewal of a license issued under this chapter solely due to a conviction for unlawful sale or supply to a minor when serving in the capacity as an employee of a licensed establishment.

Any owner, occupant, or other person or legal entity with a lawful right to the exclusive use and enjoyment of any property who knowingly allows a person under the age of twenty-one to drink or possess intoxicating liquor or knowingly fails to stop a person under the age of twenty-one from drinking or possessing intoxicating liquor on such property, unless such person allowing the person under the age of twenty-one to drink or possess intoxicating liquor is his or her parent or guardian, is guilty of a class B misdemeanor. Any second or subsequent violation of this subsection is a class A misdemeanor.

Article VII. Offenses Against Administration of Justice

Section 5.610 Escape From Jail or Custody

A person commits the offense of escape from custody or attempted escape from custody if, while being held in custody after arrest for any offense, he/she escapes or attempts to escape from custody. *State Law Reference – Instances which make this offense a felony, see RSMo. §575.200*

Section 5.620 Refusal to Identify as a Witness

A person commits the offense of refusal to identify as a witness if, knowing he/she has witnessed any portion of a crime, or any other incident resulting in physical injury or substantial property damage, upon demand by a Law Enforcement Officer engaged in the performance of his/her official duties, he/she refuses to report or gives a false report of his/her name and present address to such Officer. Any person found guilty of such an offense shall be deemed guilty of a misdemeanor.

Section 5.630 Resisting or Interfering with Arrest

1. A person commits the offense of resisting or interfering with arrest if, knowing that a Law Enforcement Officer is making an arrest; for the purpose of preventing the Officer from effecting the arrest, he/she:

- a. Resists the arrest of himself/herself by using or threatening the use of violence or physical force or by fleeing from such Officer; or
- b. Interferes with the arrest of another person by using or threatening the use of violence, physical force, or physical interference.

2. This Section applies to arrests with or without warrants and to arrests for any offense or ordinance

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violation.

3. It is no defense to prosecution under Subsection (A) of this Section that the Law Enforcement Officer was acting unlawfully in making the arrest. However, nothing in this Section shall be construed to bar civil suits for unlawful arrests.

Section 5.640 Interference with Legal Process

1. A person commits the offense of interference with legal process if, knowing any person is authorized by law to serve process, for the purpose of preventing such person from affecting the service of any process, he/she interferes with or obstructs such person.

2. **Process** includes any writ, summons, subpoena, warrant other than an arrest warrant, or other process or order of a court.

Section 5.650 False Reports

A person commits the offense of making a false report if he knowingly:

1. Gives false information to the Law Enforcement Officer for the purpose of implicating another in an offense; or
2. Makes a false report to a Law enforcement Officer that an offense 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.

Section 5.660 Striking a Police Officer

It shall be unlawful for any person to strike, beat or wound any Police Officer, Police Officer, Auxiliary Policeman or any other Peace Officer of the City while such Officer is actively engaged in the performance of duties imposed upon him/her by law and every person who shall aid and assist in so doing shall be guilty of the same offense.

Section 5.665 Deceiving a Law Enforcement Officer

1. A person commits the offense of deceiving a law enforcement officer if he shall knowingly deceive a law enforcement officer for the following purposes:
 - a. To prevent discovery of any offense or crime which has been or is being committed by any person; or
 - b. To prevent or hinder investigation, apprehension, prosecution, conviction or punishment of any person for conduct constituting an offense under the ordinances of the city of the laws of the state.
2. It is a defense to a prosecution under this section that the actor retracted the false information or removed the deception but this defense shall not apply if the retraction or removal was made after:
 - a. The falsity of the information or the deception was exposed; or

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- b. Any law enforcement officer took substantial action in reliance on the false information or deception.
- 3. The defendant shall have the burden of injection the issue of retraction or removal under paragraph 2 of this section.
- 4. Deceiving a law enforcement officer is a class A misdemeanor.

Article VIII. Offenses Against Minors

Section 5.710 Contributing to the Delinquency of a Child – Penalty

When in all cases where any child shall be a delinquent child as defined by the Statutes of this State, the parent or parents, legal guardian, or person having the custody of such child or any other person responsible for or by any act encouraging, causing or contributing to the delinquency of such child shall be guilty of a misdemeanor and upon trial and conviction thereof, shall be fined a sum not exceeding five hundred dollars (\$500.00) or imprisoned for a period not exceeding ninety (90) days or both such fine and imprisonment. The court may impose conditions upon any person found guilty under this Section and so long as such person shall comply therewith to the satisfaction of the court, the sentence imposed may be suspended. “*Delinquent child*” is one who is under the age of eighteen (18) years.

Section 5.720 Encouraging or Permitting the use of Alcohol by Minors

- 1. A person over the age of twenty-one (21) commits the offense of encouraging or permitting the consumption of alcoholic beverages by a minor if that person:
 - a. While the owner of or possessor of a motor vehicle, permits or allows or does not prevent the consumption of alcoholic beverages by any occupant of that motor vehicle who is under the age of twenty-one (21).
 - b. Consumes alcoholic beverages in any motor vehicle in which persons under the age of twenty-one (21) are also consuming alcoholic beverages.
- 2. It shall be unlawful and an offense under this Section for any person to commit an act of encouraging the use of alcohol by minors.

Section 5.730 Purchasing Tobacco for a Minor

- 1. A person over the age of twenty-one (21) commits the offense of encouraging or permitting the use of tobacco by a minor if that person purchases tobacco for a minor.
- 2. It shall be unlawful and an offense under this Section for any person to purchase or encourage the use of tobacco by minors.

Section 5.740 Hosting a Party at which Minors Consume Alcohol

No person over the age of seventeen (17) shall host or sponsor any party, on public or on private property, in any residence or other structure or at any other place in the City of Sturgeon, Missouri, at which any minor consumes any alcoholic beverage. Provided however, that any host or sponsor who discovers alcoholic beverages being consumed at such party and should immediately notifies the Police of this fact shall not be guilty of a violation

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of this Section.

Section 5.750 Abandonment of Airtight or Semi-Airtight Containers

1. A person commits the offense of abandonment of airtight container if he/she abandons, discards, or knowingly permits to remain on premises under his control, in a place accessible to children, any abandoned or discarded icebox, refrigerator, or other airtight or semi-airtight container which has a capacity of one and one-half (1 ½) cubic feet or more and an opening of fifty (50) square inches or more which has a door or lid equipped with hinge, latch or other fastening device capable of securing such door or lid, without rendering such equipment harmless to human life by removing such hinges, latches or other hardware which may cause a person to be confined therein.

2. Subsection (A) of this Section does not apply to an icebox, refrigerator or other airtight or semi-airtight container located in that part of the building occupied by a dealer, warehouseman or repairman.

3. The defendant shall have the burden of injection of the issue under Subsection (B) of this Section.

Section 5.760 Civil Rights Demonstrations – Religious Affiliation

1. Law enforcement agencies under the jurisdiction of the City of Sturgeon, Missouri, are hereby prohibited from using excessive force against individuals lawfully engaged in non-violent civil rights demonstrations.

2. The City does herein adopt for enforcement a policy against physically barring entrance to a facility or location which is the subject of such non-violent Civil Rights demonstrations, within and under its jurisdiction.

3. No person is to be excluded from participation in, denied the benefit of, or subjected to discrimination under any program on the basis of religion or religious affiliation.

Section 5.780 Child Abuse

A person commits the crime of abuse of a child if such person:

1. Knowingly inflicts cruel and inhuman punishment upon a child less than seventeen years old; or
2. Photographs or films a child less than eighteen years old engaging in a prohibited sexual act or in the simulation of such an act or who causes or knowingly permits a child to engage in a prohibited sexual act or in the simulation of such an act for the purpose of photographing or filming the act.

As used in this section "prohibited sexual act" means any of the following, whether performed or engaged in either with any other person or alone: sexual or anal intercourse, masturbation, bestiality, sadism, masochism, fetishism, fellatio, cunnilingus, any other sexual activity or nudity, if such nudity is to be depicted for the purpose of sexual stimulation or gratification of any individual who may view such depiction.

Abuse of a child is a class C felony, unless:

1. In the course thereof the person inflicts serious emotional injury on the child, or the offense is committed as part of a ritual or ceremony in which case the crime is a class B felony; or
2. A child dies as a result of injuries sustained from conduct chargeable pursuant to the provisions of this section, in which case the crime is a class A felony.

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As used in this section, the word "fetishism" means a condition in which erotic feelings are excited by an object or body part whose presence is psychologically necessary for sexual stimulation or gratification.

Article IX. Motor Vehicle Offenses

Section 5.805 Careless and Imprudent Driving

Any person who drives in a willful and wanton disregard for the safety of persons, property, life, limb and traffic is hereby deemed and declared to be guilty of careless and imprudent driving.

Section 5.810 Seat Belts & Child Restraint Devices

1. Except as otherwise provided in this Section, each driver and front seat passenger of a passenger car manufactured after January 1, 1968, operated on a street or highway in this city shall wear a properly adjusted and fastened safety belt that meets federal national highway, transportation act requirements, except that a child less than sixteen years of age shall be protected as required in Subsection 5 of this Section.

2. With respect to Subsection 1 of this Section:

a. No person shall be stopped, inspected or detained solely to determine compliance with Subsection 1 of this Section.

b. The provisions of Subsection 1 of this Section shall not be applicable to persons who have a medical reason for failing to have a seat belt fastened about his or her body or to any person employed by the United States Postal Service while performing duties for that federal agency which requires the operator to service postal boxes from their vehicles, or which require frequent entry into and exit from their vehicles.

c. As used in Subsections 1 of this Section, the term "passenger car" means every motor vehicle designed for carrying ten persons or less and used for the transportation of persons; except that, the term "passenger car" shall not include motorcycles, motorized bicycles, motor tricycles and trucks with a gross weight of 12,000 pounds or more.

d. Each driver who violates the provisions of Subsection 1 of this Section shall upon conviction, by subject to a fine not to exceed ten dollars in amount. All other provisions of law and court rules to the contrary notwithstanding, no court costs may be imposed if court costs have been assessed on any other charge arising out of the same occurrence.

e. Every person transporting a child under the age of sixteen years on the streets or highways of this city shall be responsible for transporting such child as follows:

- (1) Children less than four years of age, regardless of weight, shall be secured in a child passenger restraint system appropriate for that child;
- (2) Children weighing less than forty pounds, regardless of age, shall be secured in a child passenger restraint system appropriate for that child;
- (3) Children at least four years of age but less than eight years of age, who also weigh at least forty pounds but less than eighty pounds, and who are also less than four feet, nine inches tall, shall be secured in a child passenger restraint system or booster seat appropriate for that child;

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(4) Children at least eighty pounds or children more than four feet, nine inches in height shall be secured by a vehicle safety belt or booster seat appropriate for that child.

(5) Children eight years of age, but less than sixteen years of age, regardless of weight or height, shall be secured by a vehicle safety belt or restraint system appropriate for that child.

(6) A child who otherwise would be required to be secured in a booster seat may be transported in the back seat of a motor vehicle while wearing only a lap belt if the back seat of the motor vehicle is not equipped with a combination lap and shoulder belt for booster seat installation.

(7) When transporting children in the immediate family when there are more children than there are seating positions in the enclosed area of a motor vehicle, the children who are not able to be restrained by a child safety restraint device appropriate for the child shall sit in the area behind the front seat of the motor vehicle unless the motor vehicle is designed only for a front seat area. The driver transporting children referred to in this Subsection is not in violation of this section.

Any person who violates this Subsection shall, upon conviction, be punished by a fine of not more than fifty dollars and court costs.

Section 5.815 Passengers in Truck Beds

1. No person shall operate any truck, as defined in Section 301.010 RSMo, with a license gross weight of less than twelve thousand when such truck is operated within the corporate limits of this city when any person under eighteen years of age is riding in the unenclosed bed of such truck. No person under eighteen years of age shall ride in the unenclosed bed of such truck when the truck is in operation. Any person who operates a truck with a licensed gross weight of less than twelve thousand pounds in violation of this section shall, upon conviction, be punished by a fine of not more than \$25.00, plus court costs. The provisions of Section shall not apply to:

- a. Any employee engaged in the necessary discharge of the employee's duties where it is necessary to ride in the unenclosed bed of the truck;
- b. Any person while engaged in agricultural activities where it is necessary to ride in the unenclosed bed of the truck;
- c. Any person riding in the unenclosed bed of a truck while such truck is being operated in a parade, caravan, or exhibition which is authorized by law;
- d. Any person riding in the unenclosed bed of a truck if such truck has installed a means of preventing such person from being discharged or such person is secured to the truck in a manner which will prevent the person from being thrown, falling, or jumping from the truck;
- e. Any person riding in the unenclosed bed of a truck if such truck is being operated solely for the purposes of participating in a special event and it is necessary that the person ride in such unenclosed bed due to the lack of available seating. "Special event," for the purposes of this Section, is a specific social activity of a definable duration which is participated in by the person riding in the unenclosed bed;
- f. Any person riding in the unenclosed bed of a truck if such truck is being operated solely for the

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purposes of providing assistance to, or ensuring the safety of, other persons engaged in a recreational activity; or

g. Any person riding in the unenclosed bed of a truck if such truck is the only legally titled, licensed, and insured vehicle owned by the family of the person riding in the unenclosed bed and there is insufficient room in the passenger cab of the truck to accommodate all passengers in such truck. For the purposes of this subdivision the term "family" shall mean any persons related within the first degree of consanguinity.

Section 5.820 Fail to Obey Traffic Control Device

The driver of any vehicle shall obey the instructions of any official traffic control device applicable thereto placed in accordance with the provisions of this code, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this code.

Section 5.825 Increase Speed While Being Passed

Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle and shall not increase the speed of such driver's vehicle until completely passed by the overtaking vehicle.

Article X. Miscellaneous Driving Rules

Section 5.830 Driver's License Required

No person shall drive any motor vehicle upon any highway, alley, street, avenue, thoroughfare or other public way in the City, unless such person has a license which is valid in this State, or in the State of his residence, authorizing him to drive a motor vehicle. *State Law Reference – Drivers' license, RSMo ch. 302*

(Note: This section is identical to Section 14.295, it is printed in both places to make this ordinance code more user friendly.)

Section 5.835 Vehicle License Plate Required

No person shall drive any motor vehicle upon any highway, alley, street, avenue, thoroughfare or other public way in the City unless such person has a State auto license plate or plates as may be required, which is or are valid in this State or the State in which such vehicle is customarily licensed or which may be considered the residence of such vehicle, and which is authorized for display upon such vehicle. *State Law Reference – Registration and licensing of motor vehicles, RSMo ch. 301*

(Note: This section is identical to Section 14.300, it is printed in both places to make this ordinance code more user friendly.)

Section 5.840 Vehicle Registration Required

1. Every owner of a motor vehicle or trailer, which shall be operated or driven upon the streets of this City, except as otherwise expressly provided by Section 301.020, RSMo., shall have file, by mail or otherwise, in the office of the Director of Revenue, an application for registration on a blank to be furnished by the Director of Revenue for that purpose containing:

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- a.. A brief description of the motor vehicle or trailer to be registered, including the name of the manufacturer, the vehicle identification number, the amount of motive power of the motor vehicle, stated in figures of horsepower and whether the motor vehicle is to be registered as a motor vehicle primarily for business use as defined in Section 301.010, RSMo.;
 - b. The name and address of the owner of such motor vehicle or trailer;
 - c. The gross weight of the vehicle and the desired load in pounds if the vehicle is a commercial motor vehicle or trailer.
2. Any person who operates a motor vehicle which was not registered will be guilty of an offense.

(Note: This section is identical to Section 14.305, it is printed in both places to make this ordinance code more user friendly.)

Section 5.845 Driving While Suspended or Revoked

Any person, either resident or non-resident of the State of Missouri, whose driver's license or right or privilege to operate a motor vehicle in this State has been suspended or revoked as provided in Section 302.010 through 302.540 RSMo., shall not operate a motor vehicle within the City under a license permit or registration certificate issued by an other jurisdiction or otherwise during such suspension or after such revocation until a new license is obtained when and as permitted under Sections 302.010 through 302.540, RSMo. Violation of any provision of this Section is an offense.

(Note: This section is identical to Section 14.310, it is printed in both places to make this ordinance code more user friendly.)

Article XI. Prohibitions

Section 5.850 Safety Belts

1. As used in this Section, the term **passenger car** means every motor vehicle designed for carrying ten (10) persons or less and used for the transportation of persons; except that, the term "*passenger car*" shall not include motorcycles, motorized bicycles, motor tricycles and trucks with a licensed gross weight of twelve thousand (12,000) pounds or more.

2. Each driver, except persons employed by the United States Postal Service while performing duties for that Federal Agency which require the operator to service postal boxes from their vehicles, or which require frequent entry into and exit from their vehicles, and front seat passenger of a passenger car manufactured after January 1, 1968, operated on a street or highway in this City, and persons less than eighteen (18) years of age operating or riding in a truck, as defined in Section 301.010, RSMo., on a street or highway of this City shall wear a properly adjusted and fastened safety belt that meets Federal National Highway, Transportation and Safety Act requirements, except that a child less than four (4) years of age shall be protected as required in the following Section thereof. No person shall be stopped, inspected, or detained solely to determine compliance with this Subsection. The provisions of this Section shall not be applicable to persons who have a medical reason for failing to have a seat belt fastened about their body, nor shall the provisions of this Section be applicable to persons while operating or riding in a motor vehicle being used in agricultural work-related activities. Non-compliance with this Subsection shall not constitute probable cause for violation of any other provision of law.

(Note: This section is identical to Section 14.390, it is printed in both places to make this ordinance code more user friendly.)

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Section 5.855 Child Restraint Devices

1. Each driver of a motor vehicle transporting a child four (4) years of age or more, but less than sixteen (16) years of age in a motor vehicle shall secure the child in a properly adjusted and fastened safety belt.
2. Every person transporting a child under the age of four (4) years on the streets or highways of this City shall be responsible for transporting such child in a child passenger restraint system approved by the Missouri Department of Public Safety.

(Note: This section is identical to Section 14.395, it is printed in both places to make this ordinance code more user friendly.)

Section 5.860 Passengers in Truck Beds

No person shall operate any truck, as defined in Section 301.010, RSMo., with a licensed gross weight of less than twelve thousand (12,000) pounds when such truck is operated within the corporate limits of this City when any person under eighteen (18) years of age is riding in the unenclosed bed of such truck. No person under eighteen (18) years of age shall ride in the unenclosed bed of such truck when the truck is in operation.

(Note: This section is identical to Section 14.400, it is printed in both places to make this ordinance code more user friendly.)

Section 5.865 Driving Without Proof of Insurance – Penalty

1. Driving Without Proof of Insurance – Penalty. No driver upon the roadways may operate a motor vehicle without proof of insurance on his person as required by Section 303.024, RSMo.
2. Effective of After-the-Fact Proof of Insurance. If a driver upon the roadways subject to the jurisdiction of the City of Sturgeon violates any of this Section and makes an appearance at the Municipal Court, and there upon offers to show that they do at the time of appearance, or did at the time of the traffic stop, have adequate insurance coverage, such offer of proof shall be of no consequence to the court. The court shall only pass judgment on whether or not, at the time the summons was issued, an offender under this Section had proof of automobile insurance coverage as required by Section 303.024, RSMo., 1986 (as amended).

(Note: This section is identical to Section 14.405, it is printed in both places to make this ordinance code more user friendly.)

Section 5.870 Driving While Intoxicated or Drugged

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

(Note: This section is identical to Section 14.410, it is printed in both places to make this ordinance code more user friendly.)

Section 5.875 Excessive Blood Alcohol Content

A person commits the offense of driving with excessive blood alcohol content if he operates a motor vehicle with eight-hundredths of one percent (.08%) or more by weight of alcohol in his blood.

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(Note: This section is identical to Section 14.415, it is printed in both places to make this ordinance code more user friendly.)

Section 5.880 Definition of Drive or Operate

As used in the preceding two Sections, the term **drive** or **operate** means physically driving or operating or being in actual physical control of a motor vehicle.

(Note: This section is identical to Section 14.420, it is printed in both places to make this ordinance code more user friendly.)

Section 5.885 Percent by Weight or Alcohol – Defined

As used herein, the term **percent by weight of alcohol** shall have the same meaning as provided by State Law Section 577.012, RSMo.

(Note: This section is identical to Section 14.425, it is printed in both places to make this ordinance code more user friendly.)

Section 5.890 Implied Consent to Test For Alcohol/Drug Content

Any person who operates a motor vehicle upon the public highways of this City shall be deemed to have given consent to, subject to the provisions of Sections 577.020 to 577.041, RSMo., a chemical test or tests of his breath, blood, saliva or urine for the purpose of determining the alcohol or drug content of his blood if arrested for any offense arising out of acts which the arresting officer had reasonable grounds to believe were committed while the person was driving a motor vehicle while in an intoxicated or drugged condition. The test shall be administered at the direction of the arresting law enforcement officer whenever the person has been arrested for the offense. (RSMo. §577.020.1)

(Note: This section is identical to Section 14.430, it is printed in both places to make this ordinance code more user friendly.)

Section 5.895 Procedure on Arrest for Driving While Intoxicated

Any arrest for driving while intoxicated shall be handled as any other arrest for an offense of the same severity, except as follows:

1. As soon as practicable following such arrest, the Police Officer shall obtain the driving record of the person arrested.
2. No person who has a prior conviction for driving while intoxicated or driving with excessive blood alcohol content within ten (10) years of the date of the present alleged offense shall be prosecuted through the Municipal Court until after the State Prosecuting Attorney shall have had the opportunity to review the case and to consider filing appropriate State charges.
3. No person, regardless of his prior conviction record, shall be prosecuted through the Municipal Court where it appears possible that a charge of involuntary manslaughter might be sustained, until after the State Prosecuting Attorney shall have had the opportunity to review the case and to consider filing appropriate charges.
4. In all other cases, the City Prosecuting Attorney shall have the discretion to file the appropriate charge with the Municipal Court or he may refer the case to the State prosecuting official.

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5. The procedures described herein shall be directory and not mandatory. The failure to follow the procedures provided for in this Section shall not invalidate any prosecution or be cause to overturn any conviction for violations of Section three (3) or four (4), above, but may be reason for discipline of the City Official(s) violating this Section.

(Note: This section is identical to Section 14.435, it is printed in both places to make this ordinance code more user friendly.)

Section 5.900 Procedure in Municipal Court for Violations of Sections 14.390 or 14.395

No person charged with driving while intoxicated (Section 14.390 above) or driving with blood alcohol content (Section 14.395 above) shall have his case heard in Municipal Court except in accordance with the following procedure:

1. The defendant must either be represented by an attorney, or must voluntarily waive his right to such representation by execution of a written waiver. If the defendant chooses to do neither (or if because he is an indigent is unable to employ an attorney), the prosecution of the case shall be suspended and the case referred to the State prosecuting official. Only if the State prosecuting official declines to proceed with a State criminal prosecution shall the Municipal prosecution be resumed. *Cross Reference – Municipal court, ch 130.*

(Note: This section is identical to Section 14.440, it is printed in both places to make this ordinance code more user friendly.)

Section 5.905 Civil Judgment for Alcohol-Related Convictions

Any person convicted of an intoxication-related offense shall have a judgment entered against that person:

1. In favor of the Spinal Cord Injury Fund in the amount of twenty-five dollars (\$25.00) to be collected as provided in Section 304.027, RSMo.

2. In favor of the City of Sturgeon for apprehension costs in the amount of one hundred dollars (\$100.00).

(Note: This section is identical to Section 14.445, it is printed in both places to make this ordinance code more user friendly.)

Article XII. Violations

Section 5.910 Driving Wrong Way on One-way Street

Any person who violates any of the regulations contained in Section 14.170 through Section 14.175 of this code shall be guilty of the offense of “Driving Wrong Way on One-way Street”.

Section 5.920 Failing to Stop or Yield

Any person who violates any of the regulations contained in Section 14.180 through Section 14.220 of this code shall be guilty of the offense of “Failing to Stop or Yield”.

Section 5.930 Pedestrian Offenses

Any person who violates any of the regulations contained in Section 14.430 through Section 14.470 of this code shall be guilty of the offense of “Pedestrian Offenses”.

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Section 5.940 Parking Offenses

Any person who violates any of the regulations contained in Section 14.475 through Section 14.590 of this code shall be guilty of the offense of "Parking Offenses".

Section 5.950 Bicycle Offenses

Any person who violates any of the regulations contained in Section 14.600 through Section 14.680 of this code shall be guilty of the offense of "Bicycle Offenses".

Section 5.960 Equipment Violations

Any person who violates any of the regulations contained in Section 14.355 through Section 14.385 of this code shall be guilty of the offense of "Equipment Violations".

Section 5.970 Improper Passing

Any person who violates any of the regulations contained in Section 14.315 through Section 14.330 of this code shall be guilty of the offense of "Improper Passing".