

**Introduced by: Council Present**

**2017 Adopting Ordinance for Codification**

**AN ORDINANCE ADOPTING AND ENACTING A NEW CODE OF ORDINANCES OF THE CITY OF BERKELEY; ESTABLISHING THE SAME; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN, EXCEDPT AS HERE IN EXPRESSLY PROVIDED; PROVIDING FOR THE PENALTY FOR THE VIOLATION THEREOF; AND PROVIDING WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE**

**Now, Therefore, Be it Ordained by the City Council of the City of Berkeley, Missouri, as follows:**

**Section 1.** That pursuant to Section 71.943 of the Revised Statutes of Missouri, the codification of ordinances, as set out in Titles I through VI, each inclusive, of the "Code of Ordinances of the City of Berkeley" is hereby adopted and enacted as the "Code of Ordinances of the City of Berkeley"; which shall supersede all other general and permanent ordinances of the City passed on or before June 20, 2016, to the extent provided in Section 3 hereof.

**Section 2.** That all provisions of such Code shall be in full force and effect from and after the effective date of this ordinance as set forth herein.

**Section 3.** That all ordinances of a general and permanent nature of the City adopted on final passage on or before June 20, 2016, and not included in such Code or recognized and continued in force by reference therein, are hereby repealed from and after the effective date of this ordinance, except those which may be specifically excepted by separate ordinance, and except the following which are hereby continued in full force and effect, unless specifically repealed by separate ordinance:

- a. Ordinances promising or guaranteeing the payment of money for the City, or authorizing the issuance of any bonds or notes of the City or any other evidence of the City's indebtedness, or authorizing any contract or obligation assumed by the City;
- b. Ordinances levying taxes or making special assessments;
- c. Ordinances appropriating funds or establishing salaries and compensation, and providing for expenses;
- d. Ordinances granting franchises or rights to any person, firm or corporation;
- e. Ordinances relating to the dedication, opening, closing, naming, establishment of grades, improvement, altering, paving, widening or vacating of streets, alleys, sidewalks or public places;
- f. Ordinances authorizing or relating to particular public improvements;
- g. Ordinances respecting the conveyances or acceptance of real property or easements in real property;
- h. Ordinances dedicating, accepting or vacating any plat or subdivision in the City or any part thereof, or providing regulations for the same;
- i. Ordinances annexing property to the City;

- j. All zoning and subdivision ordinances not specifically repealed and not included herein;
- k. Ordinances establishing TIF districts or redevelopment districts;
- l. Ordinances relating to traffic schedules (i.e. stop signs, parking limits, etc.);
- m. All ordinances relating to personnel regulations (i.e. pensions, retirement, job descriptions and insurance, etc.);
- n. Ordinances authorizing the establishment of industrial development corporations;
- o. Ordinances establishing tax rates for the City.

That the repeal provided for in this Section shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance, which is repealed by this ordinance.

That the repeal provided for in this Section shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this ordinance, nor shall it affect any prosecution, suit or proceeding pending or any judgment rendered prior to such date.

**Section 4.** That any and all additions and amendments to such Code when passed in such form as to indicate the intention of the City Council to make the same a part thereof shall be deemed to be incorporated in such Code so that reference to the "Code of Ordinances of the City of Berkeley" shall be understood and intended to include such additions and amendments.

**Section 5.**

- a. Except as hereinafter provided, whenever in any rule, regulation or order promulgated pursuant to such ordinances of the City, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in such City ordinance, rule, regulation or order doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such ordinance of the City, or of any rule, regulation or order promulgated pursuant to such City ordinance, shall be punished by a fine of not less than five dollars (\$5.00) and not more than one thousand dollars (\$1,000.00) or by imprisonment for a period not to exceed three (3) months, or by both such fine and imprisonment.
- b. Whenever any provision of the Revised Statutes of Missouri or other Statute of the State limits the authority of the City to punish the violation of any particular provision of these ordinances or rules, regulations or orders promulgated pursuant thereto to a fine of less amount than that provided in this Section or imprisonment for a shorter term than that provided in this Section, the violation of such particular provision of these ordinances or rules, regulations or orders shall be punished by the imposition of not more than the maximum fine or imprisonment so authorized, or by both such fine and imprisonment.
- c. Whenever any provision of the Revised Statutes of Missouri or other Statute of the State establishes a penalty differing from that provided by this Section for an offense similar to any offense established by these ordinances, rules, regulations or other orders of the City, the violation of such City law, ordinance, rule, regulation or order shall be punished by the fine or imprisonment established for such similar offense by such State law.
- d. Each day any violation of these ordinances, rules, regulations or orders promulgated pursuant thereto shall continue shall constitute a separate offense, unless otherwise provided.

- e. Whenever any act is prohibited by this Code, by an amendment thereof, or by any rule or regulation adopted thereunder, such prohibition shall extend to and include the causing, securing, aiding or abetting of another person to do said act. Whenever any act is prohibited by this Code, an attempt to do the act is likewise prohibited.

**Section 6.** That in case of the amendment by the City Council of any Section of such Code for which a penalty is not provided, the general penalty as provided in Section 5 of this ordinance shall apply to the Section as amended; or in case such amendment contains provisions for which a penalty other than the aforementioned general penalty is provided in another Section in the same Chapter, the penalty so provided in such other Section shall be held to relate to the Section so amended, unless such penalty is specifically repealed therein.

**Section 7.** That a copy of such Code shall be kept on file in the office of the City Clerk, preserved in loose-leaf form or in such other form as the City Clerk may consider most expedient. It shall be the express duty of the City Clerk, or someone authorized by said officer, to insert in their designated places all amendments and all ordinances or resolutions which indicate the intention of the City Council to make the same part of such Code when the same have been printed or reprinted in page form and to extract from such Code all provisions which from time to time may be repealed by the City Council. This copy of such Code shall be available for all persons desiring to examine the same.

**Section 8.** That it shall be unlawful for any person to change or alter by additions or deletions any part or portion of such Code, or to insert or delete pages or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the City of Berkeley to be misrepresented thereby. Any person violating this Section shall be punished as provided in Section 5 of this ordinance.

**Section 9.** It is hereby declared to be the intention of the City Council that the Sections, paragraphs, sentences, clauses and phrases of this ordinance and the Code hereby adopted are severable, and if any phrase, clause, sentence, paragraph or Section of this ordinance or the Code hereby adopted shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and Sections of this ordinance or the Code hereby adopted.

**Section 10.** This Ordinance shall be in full force and effective from and after the date of its passage.

1st Reading this \_\_\_\_\_ day of \_\_\_\_\_ 2017

2nd Reading this \_\_\_\_\_ day of \_\_\_\_\_ 2017

3rd Reading, PASSED and APPROVED, this       day of             2017      

\_\_\_\_\_  
Theodore Hoskins, Mayor

ATTEST:

\_\_\_\_\_  
Deanna L. Jones, City Clerk

Final Roll Call:

Mayor Hoskins	Aye ___	Nay ___	Absent ___	Abstain ___
Councilwoman Hoskins	Aye ___	Nay ___	Absent ___	Abstain ___
Councilwoman Kirkland	Aye ___	Nay ___	Absent ___	Abstain ___
Councilwoman Mathison	Aye ___	Nay ___	Absent ___	Abstain ___
Councilman-at-Large McDaniel	Aye ___	Nay ___	Absent ___	Abstain ___
Councilwoman Mitchell	Aye ___	Nay ___	Absent ___	Abstain ___
Councilwoman Williams	Aye ___	Nay ___	Absent ___	Abstain ___

\_\_\_\_\_  
Approved As To Form:  
Donnell Smith, City Attorney

City of Berkeley  
2014 and 2016 Statutory Updates Incorporated During Supplement #21

The following sections of the Code have been updated with the 2016 Statutory material and the 2014 Statutory material effective as of January 1, 2017 (but see note at Chapter 210). All revised Sections will be in effect following the City's adoption of the Code.

<b>Section/Subsection of the Code</b>	<b>Description of the Revision Based on State Law Change</b>	<b>Pursuant to RSMo. Section</b>
127.127	Added three definitions, as follows: "mobile video recorder," "mobile video recording" and "non-public location."	610.100
127.130(A)	Rewritten to replace the former two last sentences with Subsections (A)(1), (2) and (3).	610.100
127.130(C)	Revised references to "any person" and "any individual" to include the phrase "legal guardian or parent of such person if he or she is a minor."	610.100
127.130(F)	Added new Subsection (F), regarding mobile video recordings.	610.100
127.140	Updated Statutory references (RSMo.) as follows: Subsection (A): Section <del>660.250</del> <u>192.2400</u> Subsection (B): Section <del>568.080</del> <u>573.200</u> , <del>568.090</del> <u>573.205</u>	Renumbering by SB 491 of 2014
140.050	Added new Subsection (C), to read as follows: "No Municipal Judge shall serve as a Municipal Judge in more than five (5) municipalities at one (1) time."	479.020
205.090	Retitled to delete "or Abandonment" and made other minor wording changes; and deleted former Subsection (C), regarding animal neglect or animal abandonment as an ordinance violation, and renumbered the subsequent Subsection.	578.009
205.100	Reworded, but with no substantive changes to the offense.	578.012
<i>Note regarding Offenses Chapter 210 revisions by SB 491 of 2014</i>	<i>The revisions to your Offenses Chapter 210 that were included in the replacement Chapter provided by General Code in the Fall of 2016 are <u>not</u> described in this document. Those revisions were to be adopted by separate ordinance as part of an entirely new Chapter.</i>	
210.425	Added new Section, titled "Signal or Direction of Law Enforcement Officer or Firefighter, Duty To Stop, Motor Vehicle Operators and Riders of Animals - Violation, Penalty."	575.145
210.840	Reorganized and revised to change the term "crime" to "offense" and to add certain exceptions regarding the use and carrying of weapons readily capable of lethal use.	571.030
310.060(B)	Added the following underlined phrase: "Upon approaching a stationary vehicle ... <u>or a stationary vehicle owned by a contractor or subcontractor performing work for the</u>	304.022

Section/Subsection of the Code	Description of the Revision Based on State Law Change	Pursuant to RSMo. Section
	<u>Department of Transportation</u> displaying lighted amber or amber and white lights, ....”	
310.080	Revised the wording in what is now Subsection (A) and added Subsections (B) and (C), regarding the State Highway and Transportation Commission’s, a contractor’s or subcontractor’s vehicles.	307.175
310.130	Added “vessel” in addition to “vehicle” as related to accidents and added the footnote regarding a felony offense.	577.060
342.010	Added the definition of “intoxication-related traffic offense” and made minor wording revisions to the other definitions.	577.001
342.020	Revised as indicated: “A person commits the offense of driving while intoxicated if he or she operates a <del>motor</del> vehicle while in an intoxicated or <del>drugged</del> condition.”	577.010
342.030	Revised to include driving a commercial motor vehicle with excessive blood alcohol content.	577.012
342.040	Rewritten to include boats and aircraft, to update statutory references and to make wording changes regarding the elements of this offense.	577.020
342.050	Rewritten to include additional language in this offense and to make minor wording changes.	577.017
395.140(A)	Made minor wording changes in the first two sentences.	303.025
600.010	Replaced the text in the definition of “malt liquor” with a reference to the Statute, to read as follows: “As defined by Section 311.490, RSMo.”	311.200
600.026	Added a new Section regarding a special permit to an out-of-state manufacturer of intoxicating liquor who is not licensed in the State of Missouri for participation in festivals, etc.	311.915
600.027	Changed the term “table tap dispensing” to read <u>self-dispensing</u> , included wine as well as beer, and additionally put the responsibility of monitoring dispensing of beer or wine on the licensee.	311.205
600.028	Added a new Section regarding the sale of draft beer in certain quantities for consumption off the premises.	311.201
600.126	Added a new Section, “Manufacturing a false identification.”	311.315
600.127	Added a new Section which deals with sale of alcohol using a “mobile application” in certain entertainment facilities.	311.950