

First Reading _____

Bill No. 1290

Second Reading _____

Ordinance No. 1245

**AN ORDINANCE AMENDING CHAPTER 210 OF
THE COOL VALLEY CITY CODE TO ENACT NEW
PROVISIONS RELATING TO OFFENSE
AGAINST THE ADMINISTRATION OF
JUSTICE.**

WHEREAS, the Missouri General Assembly has enacted a substantially re-written criminal code;

WHEREAS, the Board of Aldermen wishes to conform its ordinances and enact ordinances that incorporate as much of the state law as appropriate;

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF COOL VALLEY, MISSOURI, AS FOLLOWS:

Section One.

Article III of Chapter 210 of the Code of Ordinances of the City of Cool Valley, Missouri, is hereby amended by the addition of ten new Sections, initially to be designated as Sections 210.156.1 through 210.156.10, to read as follows

Chapter 210. Offenses

Article III. Offenses Concerning Administration of Justice

Section 210.156.1 Perjury.

- A. A person commits the offense of perjury if, with the purpose to deceive, he/she knowingly testifies falsely to any material fact upon oath or affirmation legally administered, in any official proceeding before any court, public body, notary public or other officer authorized to administer oaths.
- B. A fact is material, regardless of its admissibility under rules of evidence, if it could substantially affect, or did substantially affect, the course or outcome of the cause, matter or proceeding.
- C. Knowledge of the materiality of the statement is not an element of this offense, and it is no defense that:
 1. The person mistakenly believed the fact to be immaterial; or
 2. The person was not competent, for reasons other than mental disability or immaturity, to make the statement.

- D. It is a defense to a prosecution under Subsection (A) of this Section that the person retracted the false statement in the course of the official proceeding in which it was made provided he/she did so before the falsity of the statement was exposed. Statements made in separate hearings at separate stages of the same proceeding, including but not limited to statements made before a grand jury, at a preliminary hearing, at a deposition or at previous trial, are made in the course of the same proceeding.
- E. The defendant shall have the burden of injecting the issue of retraction under Subsection (D) of this Section.

Section 210.156.2 False Declarations.

- A. A person commits the offense of making a false declaration if, with the purpose to mislead a public servant in the performance of his/her duty, he/she:
 - 1. Submits any written false statement, which he/she does not believe to be true
 - a. In an application for any pecuniary benefit or other consideration; or
 - b. On a form bearing notice, authorized by law, that false statements made therein are punishable; or
 - 2. Submits or invites reliance on
 - a. Any writing which he/she knows to be forged, altered or otherwise lacking in authenticity; or
 - b. Any sample, specimen, map, boundary mark, or other object which he/she knows to be false.
- B. The falsity of the statement or the item under Subsection (A) of this Section must be as to a fact which is material to the purposes for which the statement is made or the item submitted; and the provisions of Subsections (2) and (3) of Section 575.040, RSMo., shall apply to prosecutions under Subsection (A) of this Section.
- C. It is a defense to a prosecution under Subsection (A) of this Section that the actor retracted the false statement or item but this defense shall not apply if the retraction was made after:
 - 1. The falsity of the statement or item was exposed; or
 - 2. The public servant took substantial action in reliance on the statement or item.
- D. The defendant shall have the burden of injecting the issue of retraction under Subsection (C) of this Section.
- E. For the purpose of this Section, "*written*" shall include filings submitted in an electronic or other format or medium approved or prescribed by the Secretary of State.
- F. Making a false declaration is an ordinance violation.

Section 210.156.3 Removal or Defacing Public Notices.

- A. No person shall remove, deface, or otherwise tamper with:
 - 1. Any property condition violation notice.
 - 2. Any notice pertaining to occupancy permits.
 - 3. Any no trespassing notice.
 - 4. Any other notice posted by the City of Cool Valley or any department thereof.
- B. Any such notices may be removed only upon full and complete compliance with the law pertaining to which the notice was posted.

Section 210.156.4 Simulating Legal Process — Non-Consensual Common Law Lien Unlawful, When.

- A. A person commits the offense of simulating legal process if, with purpose to mislead the recipient and cause him/her to take action in reliance thereon, he/she delivers or causes to be delivered:
 - 1. A request for the payment of money on behalf of any creditor that in form and substance simulates any legal process issued by any court of this State; or
 - 2. Any purported summons, subpoena or other legal process knowing that the process was not issued or authorized by any court.
- B. This Section shall not apply to a subpoena properly issued by a notary public.

Section 210.156.5 Misconduct in Administration of Justice.

- A. A public servant, in his/her public capacity or under color of his/her office or employment, commits the offense of misconduct in administration of justice if:
 - 1. He/she is charged with the custody of any person accused or convicted of any offense or municipal ordinance violation and he/she coerces, threatens, abuses or strikes such person for the purpose of securing a confession from him;
 - 2. He/she knowingly seizes or levies upon any property or dispossesses anyone of any lands or tenements without due and legal process, or other lawful authority;
 - 3. He/she is a judge and knowingly accepts a plea of guilty from any person charged with a violation of a Statute or ordinance at any place other than at the place provided by law for holding court by such judge;
 - 4. He/she is a Law Enforcement Officer and violates the provisions of Section 544.170, RSMo., by knowingly
 - a. Refusing to release any person in custody who is entitled to such release; or
 - b. Refusing to permit a person in custody to see and

- consult with counsel or other persons; or
- c. Transferring any person in custody to the custody or control of another, or to another place, for the purpose of avoiding the provisions of that section; or
- d. Preferring against any person in custody a false charge for the purpose of avoiding the provisions of that section;
- 5. He/she orders or suggests to an employee that such employee shall issue a certain number of traffic citations on a daily, weekly, monthly, quarterly, yearly or other quota basis, except when such employee is assigned exclusively to traffic control and has no other responsibilities or duties.

Section 210.156.6 Tampering With a Judicial Officer, Penalty.

- A. A person commits the offense of tampering with a judicial officer if, with the purpose to harass, intimidate or influence a judicial officer in the performance of such officer's official duties, such person:
 - 1. Threatens or causes harm to such judicial officer or members of such judicial officer's family;
 - 2. Uses force, threats, or deception against or toward such judicial officer or members of such judicial officer's family;
 - 3. Offers, conveys or agrees to convey any benefit direct or indirect upon such judicial officer or such judicial officer's family;
 - 4. Engages in conduct reasonably calculated to harass or alarm such judicial officer or such judicial officer's family, including stalking pursuant to Section 565.227, RSMo.
- B. A judicial officer for purposes of this Section shall be a Judge, Arbitrator, Special Master, Juvenile Officer, Deputy Juvenile Officer, State Prosecuting or Circuit Attorney, State Assistant Prosecuting or Circuit Attorney, Juvenile Court Commissioner, State Probation or Parole Officer, or Referee.
- C. A judicial officer's family for purposes of this Section shall be:
 - 1. Such officer's spouse; or
 - 2. Such officer or such officer's spouse's ancestor or descendant by blood or adoption; or
 - 3. Such officer's stepchild, while the marriage creating that relationship exists.

Section 210.156.7 Tampering With a Judicial Proceeding.

- A. A person commits the offense of tampering with a judicial proceeding if, with purpose to influence the official action of a

judge, juror, special master, referee or arbitrator in a judicial proceeding, he/she:

1. Threatens or causes harm to any person or property; or
2. Engages in conduct reasonably calculated to harass or alarm such official or juror; or
3. Offers, confers or agrees to confer any benefit, direct or indirect, upon such official or juror.

Section 210.156.8 Tampering With a Public Record.

- A. A person commits the offense of tampering with a public record if with the purpose to impair the verity, legibility or availability of a public record:
1. He/she knowingly makes a false entry in or falsely alters any public record; or
 2. Knowing he/she lacks authority to do so, he/she destroys, suppresses or conceals any public record.

Section 210.156.9 False Identification.

- A. It is unlawful for any person, while being issued a citation charging a violation of this Code, to give any false or fictitious name or any name other than either his or her legal name or the name that he or she is commonly known by and is employed under, or to give a false or fictitious address or an address other than the address of his or her permanent residence, or to give any other false or fictitious information required to fill out the citation.
- B. It shall be unlawful for any person to represent to any officer either that he or she was the driver of a motor vehicle when in fact he or she was not, or that he or she was not the driver of a motor vehicle when in fact he or she was, or that the driver was some other person other than the actual driver for the purpose either of having the actual driver avoid receiving, or of having some other person receive, a citation under the provisions of this Code or any Missouri Statute.

Section 210.156.10 False Affidavit.

- A. A person commits the offense of making a false affidavit if, with purpose to mislead any person, he or she, in any affidavit, swears falsely to a fact which is material to the purpose for which said affidavit is made.
- B. The provisions of Subsections (B) and (C) of Section 210.156.1 shall apply to prosecutions under Subsection (A) of this Section.
- C. It is a defense to a prosecution under Subsection (A) of this Section that the actor retracted the false statement by affidavit or testimony but this defense shall not apply if the retraction was made after:

1. The falsity of the statement was exposed; or
 2. Any person took substantial action in reliance on the statement.
- D. The defendant shall have the burden of injecting the issue of retraction under Subsection (C) of this Section.

Section Two.

It is hereby declared to be the intention of the Board of Aldermen that each and every part, section and subsection of this Ordinance shall be separate and severable from each and every other part, section and subsection hereof and that the Board of Aldermen intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. In the event that any part of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect.

Section Three.

The Chapter, Article, Division and/or Section assignments designated in this Ordinance may be revised and altered in the process of recodifying or servicing the City's Code of Ordinances upon supplementation of such code if, in the discretion of the editor, an alternative designation would be more reasonable. In adjusting such designations the editor may also change other designations and numerical assignment of code sections to accommodate such changes.

Section Four.

This ordinance shall be in full force and effect both from and after the date of its passage and approval by the Mayor and Board of Aldermen.

PASSED BY THE BOARD OF ALDERMEN FOR THE CITY OF COOL VALLEY THIS 24th DAY OF May, 2017.

AYES:
NAYS:
ABSENT:

Presiding Officer

Attest:


Deborah Jones-Daniels, City Clerk

APPROVED THIS 24th DAY OF May, 2017.

Viola J. Murphy, Mayor

Attest:


Deborah Jones-Daniels, City Clerk