

AN ORDINANCE OF THE CITY OF NEOSHO, MISSOURI PROVIDING THAT THE CODE OF ORDINANCES BE AMENDED BY ADOPTING THE MISSOURI MODEL TRAFFIC ORDINANCE; CREATING A NEW DEFINITION OF THE OFFENSES OF ASSAULT, DISTURBING THE PEACE, AND SOLICITING; AND PROHIBITING THE MISUSE OF THE EMERGENCY TELEPHONE SERVICE.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NEOSHO, MISSOURI AS FOLLOWS:

The City Council of the City of Neosho, Missouri, has determined that:

- a. In Section 300.010, the City has adopted the Missouri Model Traffic Ordinance (with certain exceptions that are still applicable), but has not clearly adopted changes since the Missouri General Assembly since 1988, some of which pertain to emergency vehicles, notification of police of accidents, pedestrian control signals, use of intersections, bicycle lanes, and all-terrain vehicles. To increase the effectiveness of the Police Department and enhance the public safety and welfare, the City should by reference adopt the Model Traffic Ordinance in its current form and as it is amended.
- b. The current definition of assault in Section 215.060 includes behaviors which do not include immediate physical threats, which places the City's police department in the position of having to devote efforts to restrain and investigate and prosecute conduct that does not ordinarily represent an urgent threat to residents and which is unlikely to result in a conviction. A definition of assault would be more practical for the City's police force and prosecutor, without creating an appreciable increase of dangerous behavior, if the definition of assault was focused on threats of immediate physical harm made by persons whose proximity to the victim made the physical injury a real threat.
- c. The current definition of disturbing the peace in Section 215.220 is so broad that it prohibits lawful behavior and could be held to be unenforceable, even against unlawful behavior because of its vagueness, as has been determined by the Missouri Supreme Court in considering a similar state statute which has since been amended.
- d. The City has no ordinance prohibiting misuse of the emergency service, and misuse of the emergency telephone service interferes with the proper use of the system for notification and dispatch of police and other emergency responders.

On the basis of these findings, the City Council hereby adopts this ordinance as follows:

Section 1. Adoption of Missouri Model Traffic Ordinance. Section 300.010 is repealed and adopted as follows:

SECTION 300.010: MODEL TRAFFIC CODE-ADOPTION AND EXCEPTIONS

Chapter 300, RSMo., consisting of Sections 300.010 through 300.600, in the form that has been enacted by the Missouri General Assembly as of February 5, 2008, commonly known as the "Model Traffic Ordinance" is hereby adopted as and for the traffic ordinance of this City, except for the following sections which are expressly deleted: 300.010(3), (6), (8), (10), (24) and (38); 300.320, 300.325, 300.460, and 300.485. Unless and until the City Council has rejected amendments to the Missouri Model Traffic Code enacted by the Missouri General Assembly, those amendments are hereby incorporated by reference upon their effective date.

Section 2. Redefinition of the crime of assault. Section 215.060 is repealed and replaced with the following new section 215.060:

- A. A person commits the offense of assault if:
1. The person attempts to cause or recklessly causes physical injury to another person; or
 2. With criminal negligence the person causes physical injury to another person by means of a deadly weapon; or
 3. The person purposely places another person in apprehension of immediate physical injury, and the person placing the other person in apprehension of an injury, and the immediacy of the injury is possible because of the proximity to the person receiving the threat to the person or persons who would carry out the threat; or
 4. The person recklessly engages in conduct which creates a grave risk of death or serious physical injury to another person; or
 5. The person knowingly causes physical contact with another person knowing the other person will regard the contact as offensive or provocative; or
 6. The person knowingly causes physical contact with an incapacitated person, as defined in section 475.010, RSMo, which a reasonable person, who is not incapacitated, would consider offensive or provocative.

Section 3. Redefinition of the offense of disturbing the peace. Section 215.220 is repealed and replaced with the following new section 215.220:

SECTION 215.220: DISTURBING THE PEACE

A. A person commits the offense of peace disturbance if:

1. The person unreasonably and knowingly disturbs or alarms another person or persons by:
 - a. Loud noise within 300 feet of a dwelling; or
 - b. Offensive language addressed in a face-to-face manner to a specific individual and uttered under circumstances which 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 which are likely to cause a reasonable person to fear that such threat may be carried out; or
 - d. Fighting in a manner that involves physical contact, either bodily or with weapons; or
 - e. Creating a noxious and offensive odor in a confined space;
2. The person is in a public place or on private property of another without consent of the owner or lawful tenant 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 4. Definition of the offense of misuse of the emergency telephone service and penalties. A new Section 215.185 is adopted as follows:

SECTION 215.185 Misuse of emergency telephone service unlawful, definitions, penalty.

- 1 It shall be unlawful for any person to misuse the emergency telephone service. For the purposes of this section:

- a. "emergency" means any incident involving danger to life or property that calls for an emergency response dispatch of police, fire, EMS or other public safety organization,
- b. "misuse the emergency telephone service", includes, but is not limited to, repeatedly calling the "911" for nonemergency situations causing operators or equipment to be in use when emergency situations may need such operators or equipment and
- c. "repeatedly" means three or more times within a one-month period.

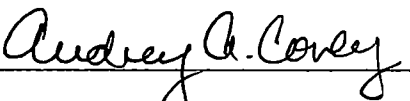
Section 5. All ordinances or parts of ordinances enacted previously which are in conflict herewith are hereby repealed.

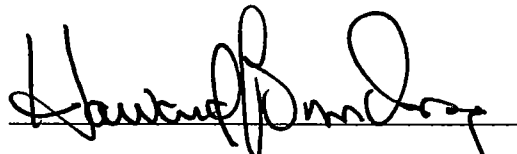
Section 6. This ordinance shall be in full force and effect fifteen (15) days after final passage and approval.

APPROVED after final passage this 1st day of April, 2008.

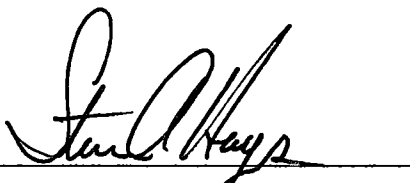
ATTEST:

CITY OF NEOSHO, CITY COUNCIL


City Clerk


Mayor

APPROVED:


City Attorney