023371

Introduced by Treece

First Reading 10-16-17 Second Reading 11-6-17

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Permanent Record
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AN ORDINANCE

amending Chapters 1, 14, 15 and 16 of the City Code to update penalty provisions to be in compliance with statutory changes enacted by the Missouri legislature; and fixing the time when this ordinance shall become effective.

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

SECTION 1. Chapter 1 of the Code of Ordinances of the City of Columbia, Missouri, is hereby amended as follows:

Material to be deleted in ~~strikeout~~; material to be added underlined.

Sec. 1-8. General penalty; continuing violations.

(a) Whenever in this Code or in any other ordinance of the city, any act is prohibited or is made or declared to be unlawful or an offense, or the doing of any act is required or the failure to do any act is declared to be unlawful or a misdemeanor, where no specific penalty is provided therefor, the violation of any such provision of this Code or any other ordinance of the city shall be punished by a fine not to exceed ~~of not less than one dollar ($1.00) nor more than~~ five hundred dollars ($500.00), or by confinement ~~imprisonment for~~ not to exceed ninety (90) days ~~exceeding three (3) months~~, or by both such fine and imprisonment.

(b) Every day any violation of any law or ordinance of the city shall continue shall constitute a separate offense.

(c) In the event a violation under chapter 14 of this Code meets the definition of a "minor traffic violation," the court shall not assess a fine and court costs totaling in excess of two hundred twenty-five dollars ($225.00).

(1) "Minor traffic violation" is defined as a traffic ordinance violation that does not involve accident or injury, that does not involve the operation of a commercial motor vehicle, and for which no points are assessed by the department of revenue or the department of revenue is authorized to assess one (1) to four (4) points to a person's driving record upon conviction.

(2) "Minor traffic violation" shall include amended charges for any minor traffic violation. Violations for exceeding the speed limit by more than nineteen miles per hour (19 mph) or violations occurring within a construction or school zone are excluded from this definition. At no time may the court sentence a person to confinement for a minor traffic violation unless the violation involves alcohol or controlled substances, endangering the health or welfare of others, or eluding or giving false information to a law enforcement officer. Any confinement ordered shall be subject to the limitations of paragraph (a) of this section.

SECTION 2. Chapter 14 of the Code of Ordinances of the City of Columbia, Missouri, is hereby amended as follows:

Material to be deleted in ~~strikeout~~; material to be added underlined.

Sec. 14-1. Definitions.

The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed:

. . .

Local commercial motor vehicle. A commercial motor vehicle whose operations are confined solely to a municipality and that area extending not more than twenty-five (25) miles therefrom.

Minor traffic violation. A traffic ordinance violation that does not involve accident or injury, that does not involve the operation of a commercial motor vehicle, and for which no points are assessed by the department of revenue or the department of revenue is authorized to assess one (1) to four (4) points to a person's driving record upon conviction. A minor traffic violation shall include amended charges for any minor traffic violation. Violations for exceeding the speed limit by more than nineteen miles per hour (19 mph) or violations occurring within a construction or school zone are excluded from this definition.

Mobile food vendor. A self-contained food service operation, located in a wheeled motor vehicle or trailer, used to store, prepare, display or serve food intended for individual portion service.

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Sec. 14-612. Driving while intoxicated.

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

(b) Driving while intoxicated is a class B misdemeanor.

Sec. 14-613. Driving with excessive blood alcohol content.

(a) A person commits the offense of "driving with excessive blood alcohol content" if such person operates a motor vehicle with eight-hundredths of one (1) percent or more by weight of alcohol in such person's blood.

(b) Driving with excessive blood alcohol content is a class B misdemeanor.

SECTION 3. Chapter 15 of the Code of Ordinances of the City of Columbia, Missouri, is hereby amended as follows:

Material to be deleted in ~~strikeout~~; material to be added underlined.

Sec. 15-24. Failure or refusal to pay fines or costs.

Subject to the conditions of Missouri Supreme Court Rule 37.65, upon ~~Upon~~ failure or refusal by any person, who has been convicted in the municipal court and fined by the municipal judge for violation of any ordinance of the city, to pay such fine, the court may order, except in cases of indigency, that the defendant be confined ~~imprisoned~~ until the fine and costs are fully paid, or if the fine is not paid, then for every ten dollars ($10.00) of such judgment the defendant ~~prisoner~~ shall serve one day in jail or other place of confinement, not to exceed thirty (30) days.

SECTION 4. Chapter 16 of the Code of Ordinances of the City of Columbia, Missouri, is hereby amended as follows:

Sec. 16-31. Authorized dispositions.

(a) Every person found guilty of an offense defined by this article shall be dealt with by the court in accordance with the provisions of this article.

(b) Whenever any person has been found guilty of a misdemeanor in this Code, the court shall make one or more of the following dispositions of the offender in any appropriate combination. The court may:

(1) Sentence the person to a term of confinement ~~imprisonment~~ as authorized by sections 16-41 through 16-43.

(2) Sentence the person to pay a fine as authorized by sections 16-66 through 16-70.

(3) Suspend the imposition of sentence, with or without placing the person on probation.

(4) Pronounce sentence and suspend its execution, placing the person on probation.

(5) Impose a period of detention as a condition of probation, as authorized by section 16-54.

(c) Whenever any person has been found guilty of an infraction, the court shall make one or more of the following dispositions of the offender in any appropriate combination. The court may:

(1) Sentence the person to pay a fine as authorized by sections 16-66 and 16-67.

(2) Suspend the imposition of sentence, with or without placing the person on probation.

(3) Pronounce sentence and suspend its execution, placing the person on probation.

(d) Whenever any organization has been found guilty of an offense, the court shall make one or more of the following dispositions of the organization in any appropriate combination. The court may:

(1) Sentence the organization to pay a fine as authorized by sections 16-66 through 16-70;

(2) Suspend the imposition of sentence, with or without placing the organization on probation;

(3) Pronounce sentence and suspend its execution, placing the organization on probation;

(4) Impose any special sentence or sanction authorized by law.

(e) Whenever any person shall have been found guilty of violating any ordinance involving the possession of marijuana or hashish, in addition to or in lieu of any other punishment, the court shall require the offender to attend and complete a drug education program where a suitable program exists. Persons required to attend a drug education program pursuant to this paragraph may be charged a reasonable fee to cover the costs of such program.

(f) This article shall not be construed to deprive the court of any other authority which has, or may be, conferred by law to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose any other civil penalty. An appropriate order exercising such authority may be included as part of any sentence.

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DIVISION 3. CONFINEMENT ~~IMPRISONMENT~~

Sec. 16-41. Sentence of confinement ~~imprisonment~~; incidents.

(a) The authorized terms of confinement ~~imprisonment~~, including both confinement ~~prison~~ and conditional release terms are:

(1) For a class A misdemeanor, a term not to exceed one year.

(2) For a class B misdemeanor, a term not to exceed six (6) months.

(3) For a class C misdemeanor, a term not to exceed fifteen (15) days.

(b) A sentence of confinement ~~imprisonment~~ for a misdemeanor shall be for a definite term and the court shall commit the defendant to the county jail or other authorized penal institution for the term of defendant's ~~his~~ sentence or until released under procedures established elsewhere by law.

(c) A sentence of confinement ~~imprisonment~~ for a term of years shall consist of a confinement ~~prison~~ term and a conditional release term. The conditional release term of any term imposed under section 16-31 shall be one-third for terms of one year or less.

(d) "Conditional release" means the conditional discharge of a prisoner by the court subject to conditions of release that the court deems reasonable to assist the offender to lead a law-abiding life, and subject to the supervision under the court. The conditions of release shall include avoidance by the offender of any other crime, federal or state offenses as defined by ordinances of this city and shall prohibit technical violations of offender's ~~his~~ probation and parole.

Sec. 16-42. Concurrent and consecutive terms of confinement ~~imprisonment~~.

(a) Multiple sentences of confinement ~~imprisonment~~ shall run concurrently unless the court specifies that they shall run consecutively.

(b) If a person who is on probation, parole or conditional release is sentenced to a term of confinement ~~imprisonment~~ for an offense committed after the granting of probation or parole or after the start of such person's ~~his~~ conditional release term, the court shall direct the manner in which the sentence or sentences imposed by the court shall run with respect to any resulting probation, parole or conditional release revocation term or terms. If the subsequent sentence to confinement ~~imprisonment~~ is in another jurisdiction, the court shall specify how any resulting probation, parole or conditional release revocation term or terms shall run with respect to the foreign sentence of confinement ~~imprisonment~~.

Sec. 16-43. Calculation of terms of confinement ~~imprisonment~~; credit for jail time awaiting trial.

(a) A person convicted of a Code violation ~~a crime~~ in this city shall receive as credit toward service of a sentence of confinement ~~imprisonment~~ all time spent by such person ~~him~~ in jail because of awaiting trial for such crime. Time required by law to be credited upon some other sentence shall be applied to that sentence alone, except that:

(1) Time spent in jail awaiting trial for an offense because of a detainer for such offense shall be credited toward service of a sentence of confinement ~~imprisonment~~ for that offense even though the person was confined awaiting trial for some unrelated bailable offense; and

(2) Credit for jail time shall be applied to each sentence if they are concurrent.

(b) The officer required by law to deliver a convicted person to jail shall endorse upon the commitment papers the period of time to be credited as provided in paragraph (a) of this section.

(c) If a sentence of confinement ~~imprisonment~~ is vacated and a new sentence is imposed on the defendant for the same offense, the new sentence is calculated as if it had commenced at the time the vacated sentence was imposed, and all time served under the vacated sentence shall be credited against the new sentence.

(d) If a person serving a sentence of confinement ~~imprisonment~~ escapes from custody, the escape interrupts the sentence. The interruption continues until the person is returned to the institution in which the sentence was being served.

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Sec. 16-66. Fines for misdemeanors and infractions.

Except as otherwise provided for an offense outside this Code, a person who has been convicted of an ordinance violation which has been classified as either a misdemeanor or infraction under this Code may be sentenced to pay a fine which does not exceed:

(1) For a class A misdemeanor, two thousand dollars ($2,000.00) ~~one thousand dollars ($1,000.00)~~;

(2) For a class B misdemeanor, one thousand dollars ($1,000.00) ~~five hundred dollars ($500.00)~~;

(3) For a class C misdemeanor, seven hundred fifty dollars ($750.00) ~~three hundred dollars ($300.00)~~;

(4) For an infraction, four hundred dollars ($400.00) ~~two hundred dollars ($200.00)~~.

Sec. 16-67. Fines for corporations.

(a) A sentence to pay a fine, when imposed on a corporation for an offense defined in this article or for any offense defined outside this article for which no special corporate fine is specified, shall be a sentence to pay an amount, fixed by the court, not exceeding:

(1) Ten thousand dollars ($10,000.00) ~~Five thousand dollars ($5,000.00)~~, when the conviction is for a ~~of a class A~~ misdemeanor.

~~(2) Two thousand dollars ($2,000.00), when the conviction is of a class B misdemeanor.~~

~~(3) One thousand dollars ($1,000.00), when the conviction is of a class C misdemeanor.~~

(4 2) One thousand dollars ($1,000.00) ~~Five hundred dollars ($500.00)~~, when the conviction is of an infraction.

(b) In the case of an offense defined outside this article, if a special fine for a corporation is expressly specified in the ordinance that defines the offense, the fine fixed by the court shall be an amount within the limits specified in the ordinance that defines the offense.

Sec. 16-68. Imposition of fines.

(a) In determining the amount and the method of payment of a fine, the court shall, insofar as practicable, proportion the fine to the burden that payment will impose in view of the financial resources of an individual. The court shall not sentence an offender to pay a fine in any amount which will prevent the offender ~~him~~ from making restitution or reparation to the victim of the offense.

(b) When any other disposition is authorized by statute, the court shall not sentence an individual to pay a fine only unless, having regard to the nature and circumstances of the offense and the history and character of the offender, it is of the opinion that the fine alone will suffice for the protection of the public.

(c) The court shall not sentence an individual to pay a fine in addition to any other sentence authorized by section 16-31 unless:

(1) The defendant ~~He~~ has derived a pecuniary gain from the offense; or

(2) The court is of the opinion that a fine is uniquely adapted to deterrence of the type of offense involved or to the correction of the defendant.

(d) When an offender is sentenced to pay a fine, the court may provide for the payment to be made within a specified period of time or in specified installments. If no such provision is made a part of the sentence, the fine shall be payable forthwith.

(e) When an offender is sentenced to pay a fine, the court shall not impose at the same time an alternative sentence to be served in the event that the fine is not paid. The response of the court to nonpayment shall be determined only after the fine has not been paid, as provided in section 16-69.

Sec. 16-69. Response to nonpayment.

(a) When an offender sentenced to pay a fine defaults in the payment of the fine or in any installment, the court upon motion of the city counselor or upon its own motion may require the offender ~~him~~ to show cause why the court ~~he~~ should not ~~be~~ confine the offender ~~imprisoned~~ for nonpayment. The court may issue a warrant of arrest or a summons for the offender's ~~his~~ appearance.

(b) Following an order to show cause under paragraph (a) of this section, unless the offender shows that such ~~his~~ default was not attributable to an intentional refusal to obey the sentence of the court, or not attributable to a failure ~~on his part~~ to make a good faith effort to obtain the necessary funds for payment, the court may order the defendant confined ~~imprisoned~~ for a term not to exceed thirty (30) days if the fine was imposed for conviction of a misdemeanor or infraction. The court may provide in its order that payment or satisfaction of the fine at any time will entitle the offender to ~~his~~ release from such confinement ~~imprisonment~~ or, after entering the order, may at any time reduce the sentence for good cause shown, including payment or satisfaction of the fine.

(c) If it appears that the default in the payment of a fine is excusable under the standards set forth in paragraph (b) of this section, the court may enter an order allowing the offender additional time for payment, reducing the amount of the fine or of each installment, or revoking the fine or the unpaid portion in whole or in part.

(d) When a fine is imposed on a corporation it is the duty of the person or persons authorized to make disbursement of the assets of the corporation and their superiors to pay the fine from the assets of the corporation. The failure of such persons to do so shall render them subject to confinement ~~imprisonment~~ under paragraphs (a) and (b) of this section.

(e) Upon default in the payment of a fine or any installment thereof, the fine may be collected by any means authorized for the enforcement of money judgments.

SECTION 5. This ordinance shall be in full force and effect from and after its passage.

PASSED this 16th day of November, 2017.

ATTEST:

City Clerk

Mayor and Presiding Officer

APPROVED AS TO FORM:

City Counselor