

BILL NO. 92-05

ORDINANCE NO. 160

AN ORDINANCE PROHIBITING OFFENSES AGAINST PROPERTY WITHIN THE CORPORATE LIMITS OF THE CITY OF FOLEY, MISSOURI SETTING PENALTIES FOR THE VIOLATIONS THEREOF AND MATTERS RELATED THERETO.

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

Section 1: That cities of the fourth class, Foley being such, have the power under §79.450 and Chapter 569 of the R.S.Mo. to regulate crime against property.

Section 2: Definitions. The following terms and phrases showing the meanings subscribed to them in this Section except where the context clearly indicates a different meaning.

(A) Appropriate -- shall mean to take, obtain, use, transfer, conceal or take possession of.

(B) Coercion -- shall mean a threat however communicated, to:

(1) commit any offense;

(2) to inflict physical injury in the future on the person threatened or another;

(3) accuse any person of any offense;

(4) expose any person to hatred, contempt or ridicule;

(5) harm the credit or business reputation of any person;

(6) take or withhold action as a public servant, or to cause a public servant to take or withhold action;

(7) inflict any other harm which would not benefit the actor.

A threat or accusation, lawsuit or other invocation of official action is not coercion if the property sought to be obtained by virtue of the threat was honestly claimed as restitution or indemnification for harm done in the circumstances to which the accusation, exposure, lawsuit or other official action relates, or as compensation for property or lawful service.

(C) Deceit -- shall mean purposely making a representation which is false and which the actor does not believe to be true and upon which the victim relies, as to a matter of fact, law, value, intention or other state of mind. The term "deceit" does not, however, include falsity as to matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary persons in the group addressed. Deception as to the actor's intention to perform a promise shall not be inferred from the fact alone that the actor did not subsequently perform the promise.

(D) Deprive -- shall mean to:

- (1) withhold property from the owner permanently;
- (2) restore property only upon payment of reward or other compensation;
- (3) use or dispose of property in a manner that makes recovery of the property by the owner unlikely.

(E) Of another -- shall refer to property or services of any person other than the actor, who has a possessory or proprietary interest therein, except that property shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security arrangement.

(F) Property -- shall mean anything of value, whether real or personal, tangible or intangible, in possession or in action, and shall include but not be limited to the evidence of a debt actually executed but not delivered or issued as a valid instrument.

(G) Services -- shall mean and include transportation, telephone, electricity, gas, water, cable television services, or other public service, accommodation in hotels, restaurants or elsewhere, admission to exhibitions and use of vehicles.

Section 3: Determination of Value. For the purposes of this Ordinance the value of property shall be ascertained as follows:

(A) Except as otherwise specified in this Section, "value" means the market value of the property at the time and place of the offense, or if such cannot be satisfactorily ascertained, the cost of replacement of the property within a reasonable time after the offense.

(B) When the value of property cannot be satisfactorily ascertained pursuant to the standards set forth in subsection (1), its value shall be deemed to be an amount less than One Hundred Fifty Dollars (\$150.00).

Section 4: Stealing.

(A) A person commits the offense of stealing if the person appropriates property or services of another worth less than One Hundred Fifty Dollars (\$150.00), with the purpose of depriving such person thereof, either without the person's consent or by means of deceit or coercion.

(B) Evidence of the following is admissible in any prosecution under this Section on the issue of the requisite knowledge or belief of the alleged thief, that the alleged thief:

(1) failed or refused to pay for property or services of a hotel, restaurant, inn or boardinghouse;

(2) gave in payment for property or services of a hotel, restaurant, inn or boardinghouse a check or negotiable paper on which payment was refused;

(3) left the hotel, restaurant, inn or boardinghouse with the intent to not pay for property or services;

(4) surreptitiously removed or attempted to remove his baggage from a hotel, inn or boardinghouse.

Section 5: Passing bad checks.

(A) A person commits the offense of passing a bad check when, with purpose to defraud the person issues or passes a check or other similar sight order for the payment of money, knowing that it will not be paid by the drawee, if the amount involved is less than One Hundred Fifty Dollars (\$150.00).

(B) If the issuer has an account with the drawee, failure to pay the check or order within ten (10) days after notice in writing that it has not been honored because of insufficient funds or credit with the drawee is prima facie evidence of purpose to defraud and of knowledge that the check or order would not be paid.

(C) The term "notice in writing" shall mean notice deposited via certified mail, return receipt requested, in the United States mail and addressed to the issuer at the issuer's address as it appears on the dishonored check or to the issuer's last known address.

(D) Before a summons shall be issued for the violation of this Section, the complainant shall mail a notice letter on form provided by the city attorney to the maker or drawer of such check, draft or order, via certified mail, return receipt requested, giving ten (10) days' notice of the making, drawing, uttering or delivering of such check, with the city a sum of money sufficient to cover the administrative cost of said mailing. These costs may be refundable at the conclusion of the case at the discretion of the court.

Section 6: Tampering.

(A) A person commits the offense of tampering if the person:

(1) tampers with the property of another for the purpose of causing substantial inconvenience to that person or to another;

(2) unlawfully rides in or upon another's automobile, airplane, motorcycle, motorboat or other motor-propelled vehicle;

(3) tampers with, or causes to be tampered with, any meter or other property of an electric, gas, sewer or water utility, the effect of which tampering is either:

(a) to prevent the proper measuring of electric, gas, sewer or water service;

(b) to permit the diversion of any electric, gas, sewer or water service.

Section 7: Property Damage. A person commits the offense of property damage if the person:

(A) Knowingly damages property of another; or

(B) Damages property for the purpose of defrauding an insurer.

Section 8: Any person violating this Ordinance shall be subject to a fine not to exceed Five Hundred Dollars (\$500.00) or imprisonment in the Lincoln County jail for a period not to exceed ninety (90) days or both such fine or imprisonment.

Section 9: This Ordinance shall be in full force and effect immediately upon its enactment and approval.

READ THREE TIMES AND APPROVED THIS 18 DAY OF NOVEMBER, 1992.

Mary E. Schmitt
MAYOR

ATTEST:

Sylvia Collier
CITY CLERK