

PART II

CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS

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Sec. 1-1. How code designated and cited.

The ordinances embraced in this and the following chapters and sections shall constitute and be designated the "Code of Ordinances of the City of St. Joseph, Missouri."
(Code 1969, § 1-1)

Sec. 1-2. Definitions and rules of construction.

In the construction of this code and of all ordinances, the following definitions and rules of construction shall be observed, unless it shall be otherwise expressly provided in any section or ordinance or unless inconsistent with the manifest intent of the city or unless the context clearly requires otherwise:

Generally. All general provisions, terms, phrases and expressions contained in this code shall be liberally construed in order that the true intent and meaning of the city may be fully carried out.

In the interpretation and application of any of the provisions of this code, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of the code imposes greater restrictions upon the subject matter than the general provision imposed by the code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

Charter. Charter means the Charter of the City of St. Joseph, Missouri.

City. City means the City of St. Joseph, Missouri.

City council or council. City council or council means the council of the City of St. Joseph, Missouri.

Code. Code means the Code of Ordinances of the City of St. Joseph, Missouri, as designated in Section 1-1.

Computation of time. The time within which any act provided by law is to be done shall be computed by excluding the first day and including the last, unless the last day is Sunday or a legal holiday, and then it shall also be excluded. If the day succeeding such Sunday or holiday is also a

holiday or a Sunday, then such succeeding day shall also be excluded.

State law reference(s)--Similar provisions, RSMo 1.040.

County. County means Buchanan County, Missouri.

Delegation of authority. A provision requiring a city officer or city employee to do some act is to be construed to authorize such officer or employee to designate, delegate and authorize subordinates to perform the required act.

Gender. When any subject matter, party or person is described or referred to by words importing the masculine, females, as well as males, and associations and bodies corporate, as well as individuals, shall be deemed to be included.

State law reference(s)--Similar provisions, RSMo 1.030.

In the city. In the city or within the city includes all territory over which the city has jurisdiction for the exercise of its police powers or other regulatory powers at the time in question.

Joint authority. All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

State law reference(s)--Similar provisions, RSMo 1.050.

May. May is to be construed as being permissive.

May not. May not has a prohibitory effect and states a prohibition.

Month. Month means a calendar month.

State law reference(s)--Similar provisions, RSMo 1.020(10).

Municipal court, municipal judge, etc. Municipal court means the municipal division of the circuit court established under Article IX of the charter.

Must. Must is to be construed as being mandatory and not permissive.

Nontechnical and technical words. Words and phrases shall be construed according to the common and approved usage of the language, but

technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

Number. When any subject matter, party or person is described or referred to by words importing the singular number, the plural and separate matters and persons and bodies corporate shall be deemed to be included.

State law reference(s)--Similar provisions, RSMo 1.030.

Oath. Oath includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

Official time. United States standard time for the zone in which the city is located shall be the official time of the city, but the official time of the city shall be advanced one hour during such period of each year when daylight saving time shall be in effect throughout the state pursuant to state or federal law or regulation. When reference is made to any time without qualification in any ordinance, resolution or order passed or which may be passed by the city council or in any official notice, advertisement or document of the city or in any contract to which the city is a party, it shall be understood to refer to the official time of the city as described in this definition. When the words "daylight saving time" are used, the reference shall be to the advanced time prescribed as the official time during such periods as mentioned in the first sentence of this definition.

Or, and. "Or" may be read "and" if the sense requires it. "And" may be read "or" if the sense requires it.

Owner. Owner, applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such building or land.

Person. Person includes a corporation, firm, partnership, association, organization and any other group acting as a unit, as well as individuals. It shall also include an executor, administrator, trustee, successor in trust, receiver or other representative appointed according to law. Whenever the word "person" is used in any section of this code prescribing a penalty or fine, as to

partnerships or associations, the word shall include the partners or members thereof, and as to corporations, shall include the officers, agents or members thereof who are responsible for any violation of any section. Whenever the word "person" is used in any section of this code or any ordinance of the city prescribing taxes, licenses, fees, charges, special assessments, liens, or penalties; as to partnerships or associations, the word shall include the individual partners or members thereof owing such obligations; and, as to corporations, shall include the individual officers, directors, managing officers, agents or members thereof owing such obligations.

Personal property. Personal property includes money, goods, chattels, things in action and evidences of debt.

State law reference(s)--Similar provisions, RSMo 1.020(12).

Preceding, following. Preceding and following mean next before and next after, respectively.

State law reference(s)--Similar provisions, RSMo 1.020(14).

Premises. Premises means place or places.

Property. Property includes real and tangible and intangible personal property.

State law reference(s)--Similar provisions, RSMo 1.020(15).

Public way. Public way includes any street, alley, boulevard, parkway, highway, sidewalk or other public thoroughfare.

Real property, etc. Real property, premises, real estate or lands are coextensive with lands, tenements and hereditaments.

State law reference(s)--Similar provisions, RSMo 1.020(16).

References to officials, boards, etc. Any reference to any official, board or commission refers to such official, board or commission of the city.

Residence. Residence means the place adopted by a person as his place of habitation and to which, whenever he is absent, he has the intention of returning. When a person eats at one place and sleeps at another, the place where such person sleeps shall be deemed his residence.

State law reference(s)--Place of residence defined, RSMo 1.020(13).

RSMo. RSMo means the Revised Statutes of Missouri.

Shall. Shall is to be construed as being mandatory.

Sidewalk. Sidewalk means that portion of the street between the curblineline and the adjacent property line which is intended for the use of pedestrians.

Signature. Where the written signature of any person is required, the proper handwriting of such person or his mark shall be intended.

State. State means the State of Missouri.

Street. Street includes any public way, highway, street, avenue, boulevard, parkway, alley or other public thoroughfare. Each of such words includes all of them.

Tangible personal property. Tangible personal property includes goods, chattels and all personal property, except intangible personal property.

Tenant, occupant. Tenant or occupant, applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.

Tense. Words used in the past or present tense include the future as well as the past and present.

Week. Week shall be construed to mean seven days; but publication in a newspaper of any notice or other matter indicated to be for a stated number of weeks shall be construed to mean one insertion in each week, unless specifically stated to be for each day of the week or for more than one day in each week, and all publications heretofore made in accordance with the terms of this definition are hereby validated.

Writing. Writing and written include printing, lithographing or any other mode of representing words and letters.

State law reference(s)--Similar provisions, RSMo 1.020(21).

Year. Year means a calendar year, unless otherwise expressed. Year is equivalent to the words "year of our Lord."

State law reference(s)--Similar provisions, RSMo 1.010(10).

(Code 1969, § 1-2; Gen. Ord. No. 937, § 1(13-9(b)), 3-2-92; Gen. Ord. No. 1144, § 1(13-8(b)), 1-18-94)

State law reference(s)--Construction of statutes generally, RSMo 1.010 et seq.

Sec. 1-3. Catchlines of sections, effect of history notes, references in code.

(a) The catchlines of the several sections of this code printed in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections nor as any part of such sections nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

(b) The history or source notes appearing in parentheses after sections in this code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the section. Cross references, charter references and state law references which appear after sections or subsections of this code or which otherwise appear in footnote form are provided for the convenience of the user of this code and have no legal effect.

(c) All references to chapters, articles or sections are to the chapters, articles and sections of this code, unless otherwise specified. (Code 1969, § 1-5)

Sec. 1-4. Jurisdiction.

Unless otherwise provided in this code, this code applies to acts performed within the corporate limits of the city. Provisions of this code also apply to acts performed outside the corporate limits and up to the limits prescribed by law where the law confers powers on the city to regulate such particular acts outside the corporate limits. (Admn. C., § 1.11)

Sec. 1-5. Responsibility for acts.

Every person concerned in the commission of an act prohibited by this code, whether he directly commits the act or prosecutes, conceals, aids or abets in its commission, may be prosecuted and on conviction is punishable as if he had directly committed such act.

(Admn. C., § 1.04)

Sec. 1-6. Certain ordinances not affected by code.

(a) Nothing in this code or the ordinance adopting this code shall affect any ordinance:

- (1) Promising or guaranteeing the payment of money for the city, or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness, or any contract or obligations assumed by the city.
- (2) Granting any right or franchise.
- (3) Dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the city.
- (4) Making any appropriation.
- (5) Levying or imposing taxes.
- (6) Establishing or prescribing grades in the city.
- (7) Providing for local improvements and assessing taxes therefor.
- (8) Dedicating or accepting any plat or subdivision in the city.
- (9) Extending or contracting the boundaries of the city.
- (10) Prescribing the number, classification, benefits or compensation of any city officers or employees.
- (11) Pertaining to zoning.
- (12) Creating any sewer districts.
- (13) Rezoning specific property.
- (14) Which is temporary, although general in effect.

(15) Which is special, although permanent in effect.

(16) The purpose of which has been accomplished.

(b) The ordinances referred to in subsection (a) of this section are recognized as continuing in full force and effect to the same extent as if set out at length in this code. Such ordinances are on file in the city clerk's office.

Sec. 1-7. Provisions considered as continuation of existing ordinances.

The provisions of this code, so far as they are the same as ordinances existing at the time of adoption of this code, shall be considered as a continuation thereof and not as new enactments.

Sec. 1-8. Code does not affect prior offenses, rights, etc.

(a) Nothing in this code or the ordinance adopting this code shall 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 code.

(b) The adoption of this code shall not be interpreted as authorizing or permitting any use or the continuance of any use of a structure or premises in violation of any ordinance of the city in effect on the date of adoption of this code.
(Code 1969, § 1-20)

Sec. 1-9. Effect of repeal of ordinances.

(a) The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.

(b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect nor any suit, prosecution or proceeding pending at the time of the repeal for an offense committed or cause of action arising under the ordinance repealed.
(Code 1969, § 1-20)

Sec. 1-10. Amendments to code.

(a) All ordinances passed subsequent to this code which amend, repeal or in any way affect this code may be numbered in accordance with the numbering system of this code and printed for inclusion therein, or, in the case of repealed chapters, sections and subsections or any part thereof by subsequent ordinances, such repealed portions may be excluded from the code by omission from reprinted pages affected thereby and the subsequent ordinances as numbered and printed or omitted, in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this code and subsequent ordinances numbered or omitted are readopted as a new code by the city.

(b) Amendments to any of the provisions of this code should be made by amending such provisions by specific reference to the section of this code in substantially the following language: "Section of the Code of Ordinances of the City of St. Joseph, Missouri, is hereby amended to read as follows:" The new provisions shall then be set out in full as desired.

(c) When the city desires to enact an ordinance of a general and permanent nature on a subject not existing in the code, which the city desires to incorporate into the code, a section in substantially the following language shall be made a part of the ordinance: "The Code of Ordinances of the City of St. Joseph, Missouri, is hereby amended by adding a section, to be numbered _____, which said section reads as follows:" The new section shall then be set out in full as desired.

(d) All sections, articles, chapters or provisions of this code desired to be repealed should be specifically repealed by section number or chapter number, as the case may be.

(e) Additions or amendments to this code when passed in such form as to indicate the intention of the city to make the amendment a part of this code shall be deemed to be incorporated in this code so that a reference to the Code of Ordinances of the City of St. Joseph, Missouri, shall be understood as including them.

(Code 1969, §§ 1-6, 1-7)

Sec. 1-11. Supplementation of code-- generally.

(a) By contract or by city personnel, supplements to this code shall be prepared and printed whenever authorized or directed by the city council. A supplement to the code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the code. The pages of a supplement shall be so numbered that they will fit properly into the code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this code, all portions of the code which have been repealed shall be excluded from the code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions;
- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the code printed in the supplement and make changes in such catchlines, headings and titles;
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
- (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections ___ to ___" (inserting section numbers to indicate the sections of the code which embody the substantive sections of the ordinance incorporated into the code); and

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- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the code, but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the code.

Sec. 1-12. Same--exclusion of special or temporary ordinances.

Ordinances adopted which are not of a general or permanent nature shall be numbered consecutively, authenticated, published and recorded in the book of ordinances, but shall not be prepared for insertion in this code nor be deemed a part of this code.

Sec. 1-13. Responsibility of officers and employees for assigned copies of code.

Each city officer or employee assigned a copy of this code shall be responsible for maintaining the code and for the proper insertion of amendatory pages as received. Each such copy shall remain the property of the city and shall be turned over by the officer having custody thereof, upon expiration of his term of office, to his successor or to the city clerk, in case he shall have no successor.

Sec. 1-14. General penalty.

(a) Unless another penalty is specifically provided by this code for violation of any particular provision, section or chapter, any person violating any provision of this code or any rule or regulation adopted or issued in pursuance thereof or any provision of any code adopted by reference shall, upon conviction, be subject to incarceration for not less than one nor more than 180 days or a fine of not less than \$1.00 nor more than \$500.00, or both such fine and incarceration and the cost of prosecution.

(b) The person upon whom any fine or penalty is imposed by order of the court for violation of any provision of this code or any ordinance of the city may, if determined by the court to willfully fail to pay such fine or willfully fail to obey such order, be committed to the city or county jail as provided by law or to any other place provided by ordinance for the incarceration of offenders. No

imprisonment for contempt of the court's order, however, shall exceed six months for any one offense.

(c) Every committed person shall work at whatever labor his strength permits, within and without the place of incarceration, not to exceed ten hours each working day. The committed person shall be allowed, exclusive of his board, a credit of \$10.00 for each day's work on account of the fine, penalty and cost or such other credit as may be fixed by state law.

(d) Any person incarcerated on a charge of violating a bailable provision of this code or any ordinance who does not supply bail and against whom a fine is levied upon conviction of such offense shall be allowed a credit of \$5.00 for each day so incarcerated prior to conviction, but such credit shall not exceed the amount of fine levied.

(e) Each act of violation and each day upon which a violation occurs constitutes a separate offense.

(Code 1969, § 1-16)

Cross reference(s)--Municipal court, ch. 13; court costs, § 13-48.

Sec. 1-15. Prosecution where different penalties exist for same offense.

In all cases where the same offense is made punishable by different provisions of this code or of any ordinance or resolution becoming a law, the city, in a prosecution based thereunder, may elect under which clause or section to proceed, but not more than one recovery shall be had against the same person for the same offense.

(Code 1969, § 1-18)

Sec. 1-16. Severability of parts of code.

The sections, paragraphs, sentences, clauses, phrases, articles and chapters of this code are severable, and if any phrase, clause, sentence, paragraph, section, article or chapter of this code shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, sections, articles or chapters of this code.

(Code 1969, § 1-9)

Sec. 1-17. Code as evidence.

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Any printed copy of this code, containing a printed certificate of the mayor and the city clerk as to the correctness of such code, shall be received in evidence in any court for the purpose of proving all sections, articles, and chapters of the code therein contained, the same and for the same purpose as the original ordinances or original transcript of this code would be received.

(Code 1969, § 1-11)