

CHAPTER 1
ADOPTION OF CODE
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CHAPTER 1 ADOPTION OF CODE

1.005 How Code designated and cited

The ordinances embraced in this and the following chapters and sections shall constitute and be designated “The Code of the City of Ashland, Missouri” and may be so cited. Such ordinance may also be cited as “Ashland City Code”.

1.010 Definitions and rules of construction

In the construction of this Code and of all other ordinances of the city, 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 council, or unless the context clearly requires otherwise:

Chief of Police. The words “chief of police” or “police chief” shall be deemed to include the word “marshal.”

City. The words “the city” or “this city” shall mean the City of Ashland, Missouri.

Code. The “Code” shall mean: The Code of the City of Ashland, Missouri, as designated in section 1.005 above.

Computation of time. The time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is Sunday or a legal holiday, it shall be excluded.

City limits. Whenever the words “city limits” are used they shall mean the legal boundary of the City of Ashland.

County. The words “the county” or “this county” shall mean Boone County.

Delegation of authority. Whenever a provision appears requiring the head of a department of the city to do some act or make certain inspections, it is to be construed to authorize the head of the department to designate, delegate and authorize subordinates to perform the required act or make the required inspection unless the terms of the provision or section designate otherwise.

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.

Interpretation. In the interpretation and application of any provision of this Code, it 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.

Joint authority. All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

Marshal. Wherever the word “marshal” appears in this Code or other ordinances of the city, such word shall mean the chief of police of the city.

May. The word “may” is permissive.

Month. The word “month” shall mean a calendar month.

Name of officer. Whenever the name of an officer is given it shall be construed as though the words “of the City of Ashland” were added.

Non-technical 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.

Oath. The word “oath” shall be construed to include 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 heretofore passed or which may be passed hereafter 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 herein described. 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 paragraph.

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

Owner. The word “owner,” applied to a building, land or personal property, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such building, land or personal property.

Person. The word “person” shall include 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, receiver or other representative appointed according to law.

Personal property. The term “personal property” shall include money, goods, chattels, things in action and evidences of debt.

Proceeding; following. The words “preceding” and “following” shall mean next before and next after, respectively.

Premises. Whenever the word “premises” is used it shall mean place or places.

Property. The word “property” shall include real and tangible and intangible personal property.

Public way. The words “public way” shall include any street, alley, boulevard, parkway, highway, sidewalk or other public thoroughfare.

Real property. The terms “real property,” “premises”, “real estate” or “lands” shall be deemed to be co-extensive with land, tenements and hereditaments.

Residence. The term “residence” shall be construed to mean 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.

Shall. The word “shall” is mandatory, and not permissive.

Sidewalk. The word “sidewalk” shall mean that portion of the street between the curb line or the inside line of any parkway which may be present and the adjacent property line which is intended for 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. The words “the state” or “this state” shall mean the State of Missouri.

Street. The word “street” shall mean and include any public way, highway, street, avenue, boulevard, parkway, alley or other public thoroughfare, and each of such words shall include all of them.

Tenant; occupant. The words “tenant” or “occupant” applied to a building or land shall include any person who occupies the whole or a part of such building or land, whether alone or with others.

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

Week. The word “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. The words “writing” and “written” shall include printing, lithographing or any other mode of representing words and letters, but in all cases where the signature of any person is required, the proper handwriting of the person, or his mark, is intended.

Year. The word “year” shall mean a calendar year, unless otherwise expressed, and the word “year” shall be equivalent to the words “Year of our Lord.”

1.015 Certain ordinances not affected by code

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 therefore;
8. Dedicating or accepting any plat or subdivision in the city, or otherwise relating to subdivisions;
9. Extending or contracting the boundaries in the city
10. Prescribing the number, classification, benefits or compensation of any city officers or employees;
11. Pertaining to zoning
12. Which is temporary, although general in effect;
13. Which is special, although permanent in effect;
14. The purpose of which has been accomplished;

and all such ordinances are hereby 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.

1.020 Provisions considered 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.

1.025 Code does not affect prior offenses, rights, etc.

1. 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.

2. 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.

1.030 Catch-lines of sections

The catch-lines of the several sections of this Code printing 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, or as any part of the sections; nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catch-lines, are amended or reenacted.

1.033 Appendices

All appendices attached to this Code, and referred to herein shall be considered a part thereof, as if more fully and completely set out within the body of the Code.

1.035 Effect of repeal of ordinances

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

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.

1.040 Jurisdiction

Except as otherwise provided, the provisions of this Code shall apply only in the city limits.

1.045 Amendments to code

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 of ordinances by the council.

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: "That section ____ of the Code of the City of Ashland, Missouri, is hereby amended to read as follows:" (set out new provision in full)

1.050 Supplementation of code-generally

1. By contract or by city personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the Board of Aldermen. 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.

2. 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.
3. When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, non-substantive 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:
 - A. Organize the ordinance material into appropriate subdivisions
 - B. Provide appropriate catch-lines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catch-lines, headings and titles;
 - C. 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;
 - D. 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
 - E. Make other non-substantive 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.

1.055 Same-Exclusion of special or temporary ordinances

Ordinances hereafter 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 hereof.

1.060 Responsibility of officers and employees with respect to assigned copies of Code

Each city officer or employee assigned a copy of this Code shall be responsible for maintaining the same 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.

1.065 Availability of Code

At least three copies of the published book shall be kept on file in the office of the municipal clerk and kept available for inspection by the public at all reasonable hours. (State law reference-71.948. RSMo.)

1.070 Prosecution where different penalties exist for same offense

In all cases where the same offense may be punishable, or shall be created by different clauses or sections of the ordinances of the city, the prosecuting officer may elect under which to proceed; but not more than one recovery shall be had against the same person for the same offense.

1.075 Attempts to violate Code; aiding and abetting

1. It shall be unlawful for any person to attempt to commit any act which is prohibited by this Code or other ordinance or by any rule, regulation, order or notice duly promulgated or given pursuant to authority thereof; and it shall be unlawful for any person to aid or abet another in the commission or attempted commission of any act which is prohibited by this Code or other ordinance or by any rule, regulation, order or notice duly promulgated or given pursuant to authority thereof.

2. It shall be unlawful for any person to attempt to avoid the doing of any act which is required by this Code or other ordinance or by any rule, regulation, order or notice duly promulgated or given pursuant to authority thereof; and it shall be unlawful for any person to aid or abet another in the avoidance or attempted avoidance of any act which is required by this Code or other ordinance or by any rule, regulation, order or notice duly promulgated or given pursuant to authority thereof.

3. A person is guilty of such an attempt to commit an offense when, with the purpose of committing the offense, he does any act which is a substantial step towards the commission of the offense. A “substantial step” is conduct which is strongly corroborative of the firmness of the actor’s purpose to complete the commission of the offense. It is no defense to a prosecution under this section that the offense attempted was, under the actual attendant circumstances, factually or legally impossible of commission, if such offense could have been committed had the attendant circumstances been as the actor believed them to be. As used in this subsection, the term “offense” means a violation of subsections (a) or (b). (State law reference-564.011 RSMO.)

1.080 Severability of parts of Code

It is hereby declared to be the intention of the Board of Aldermen that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code, since the same would have been enacted by the Board of Aldermen without the incorporation in this Code of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

1.085 City boundaries

The limits and boundaries of the city are extended, defined and declared to be as follows, in the County of Boone, in the State of Missouri; as set forth in Appendix A.

1.090 Penalties, General

Unless otherwise established by a specific chapter or section of this Code, the penalty for violating any section of this Code shall be, not less than One (1) Dollar nor more than Five Hundred (500) Dollars.