

Chapter 1 – General Provisions

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CHAPTER 1

GENERAL PROVISIONS

Note: The City of Nixa is an incorporated fourth class city by reason of the Election held on June 7, 1946.

Section 1-1. How Code Designated and Cited.

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

Section 1-2. 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 Board of Aldermen, or unless the context clearly requires otherwise:

BOARD OF ALDERMEN. The words “Board of Aldermen” or “the Board” shall mean the Board of Aldermen of Nixa, Missouri.

CITY, MUNICIPALITY. The words “the City,” “this City,” “the municipality” or “this municipality” shall mean the City of Nixa, Missouri.

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; and if the last day is Sunday or a legal holiday, that shall be excluded.

COUNTY. The words “the county” shall mean the County of Christian, State of Missouri.

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

JOINT AUTHORITY. Words importing joint authority to three or more persons shall be construed as authority to a majority of such persons.

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

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.”

OWNER. The word “owner”, applied to a building or land, 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 or land.

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. 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 such section.

PRECEDING, FOLLOWING. The words “preceding” and “following” shall mean next before and next after, respectively.

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 coextensive with lands, tenements and hereditaments.

SHALL, MAY. The word “shall” is mandatory, and the word “may” is permissive.

SIDEWALK. The word “sidewalk” shall mean that portion of the street between the curb line 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. 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.

TANGIBLE PERSONAL PROPERTY. “Tangible personal property” shall include goods, chattels and all personal property, except intangible personal property.

TENANT, OCCUPANT. The word “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.

WRITING. The words “writing” and “written” shall include printing, lithographing or any other mode of representing words and letters.

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.”

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 Board of Aldermen may be fully carried out.

Section 1-3. Catch Lines of Sections, Provisions Considered as Continuations of Existing Ordinances.

The catch lines of the several sections of this Code are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such section, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catch lines, are amended or reenacted.

The provisions appearing in this Code, so far as they are in substance the same as those of ordinances existing at the time of the adoption of “The Code of the City of Nixa, Missouri,” shall be considered as a continuation thereof and not as new enactments.

Section 1-4. 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.

Section 1-5. Repeal of Ordinance Not to Affect Liabilities, Etc.

Whenever any ordinance or part of an ordinance shall be repealed or modified, either expressly or by implication, by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the ordinance repealing or modifying the same shall go into effect, unless therein otherwise expressly provided; but no suit, prosecution, proceeding, right, fine or penalty instituted, created, given, secured or accrued under any ordinance previous to its repeal shall in any way be affected, released or discharged but may be prosecuted, enjoyed and recovered as fully as if such ordinance or provisions had continued in force, unless it shall be therein otherwise expressly provided.

Section 1-6. Repeal Not to Revive Former Ordinance.

When an ordinance repealing a former ordinance, clause or provision shall itself be repealed, such repeal shall not be construed to revive such former ordinance, clause or provision unless it be expressly so provided and such former ordinance, clause or provision is set forth at length.

Section 1-7. Enacting Ordinances-Procedure.

The style of the ordinances of the City shall be: “Be it ordained by the Board of Aldermen of the City of Nixa as follows: “No ordinance shall be passed except by bill, and no bill shall become an ordinance unless on its final passage a majority of the members elected to the Board of Aldermen shall vote for it, and the ayes and nays shall be entered on the journal. Every proposed ordinance shall be introduced to the Board of Aldermen in writing and shall be read by title or in full two times prior to passage, both readings may occur at a single meeting of the Board of Aldermen. If the proposed ordinance is read by title only, copies of the proposed ordinance shall be made available for public inspection prior to the time the bill is under consideration by the Board of Aldermen. No bill shall become an ordinance until it shall have been signed by the Mayor or person exercising the duties of the Mayor’s office, or shall have been passed over the Mayor’s veto.

Section 1-8. Same-Approval; Reconsideration; Passage Over Mayor’s Veto.

Every bill duly passed by the Board of Aldermen and presented to the Mayor, and by him approved, shall become an ordinance; and every bill presented, but returned with his objections thereto, shall stand reconsidered. The Board of Aldermen shall cause the objections of the Mayor to be entered at large upon the journal, and proceed at its convenience to consider the question pending, which shall be in this form: “Shall the bill pass, the objections of the Mayor thereto notwithstanding?” The vote on this question shall be taken by ayes and nays and the names entered upon the journal, and if two-thirds of all the members-elect shall vote in the affirmative, the City Clerk shall certify the fact on the roll, and the bill thus certified shall be deposited with the proper officer, and shall become an ordinance in the same manner and with like effect as if it had received the

approval of the Mayor. The Mayor shall have power to sign or veto any ordinance passed by the Board of Aldermen; provided, that should he neglect or refuse to sign any ordinance and return the same with his objections, in writing, at the next regular meeting of the Board of Aldermen, the same shall become a law without his signature.

Section 1-9. Same-Effect on Failure to Sign.

When the Mayor shall neglect or refuse to sign any bill, he shall return the same with his objections thereto in writing, at the next regular meeting after the same shall have been passed by the Board of Aldermen. Such ordinance shall be authenticated as having become a law by a certificate endorsed thereon as follows:

“This ordinance having passed by the Board of Aldermen on the ____ day of _____, 20__ , and the Mayor having neglected or refused to sign and return the same with his objections thereto in writing, at the next regular meeting of the Board of Aldermen, the same has become a law without his signature this ____ day of _____, 20__.”

Such ordinances, after being signed by the City Clerk and properly attested by the City seal, shall be sufficient authentication thereof; and such ordinances shall be published and filed in the Office of the City Clerk, in the same manner as the other ordinances.

Section 1-10. Amendments to Code.

- a. All ordinances passed subsequent to this Code of Ordinances which amend, repeal or in any way affect this Code of Ordinances, 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 re-printed pages affected thereby, and the subsequent ordinances as numbered and printed or omitted are readopted as a new Code of Ordinances by the Board of Aldermen.
- 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: “That section _____ of the Code of Ordinances of the City of Nixa, Missouri, is hereby amended to read as follows: ...(Set out new provisions in full)...”
- c. In the event a new section not heretofore existing in the Code to be added, the following language may be used: “That the Code of Ordinances of the City of Nixa, Missouri, is hereby amended by adding a section (or article, chapter or

other designation, as the case may be), to be numbered _____, which reads as follows: ... (Set out new provisions in full)”

- d. In lieu of the foregoing paragraph, when the Board of Aldermen desires to enact an ordinance of a general and permanent nature embracing a subject not previously existing in the Code, which the Board of Aldermen desires to incorporate into the Code, a provision in substantially the following language may be made a part of the ordinance: “It is the intention of the Board of Aldermen, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of Ordinances of the City of Nixa, Missouri, and the sections of this ordinance may be renumbered to accomplish such intention.”

- e. All sections, articles, chapters or other provisions of this Code desired to be repealed should be specifically repealed by section number, article number, chapter or other number, as the case may be.

Section 1-11. Altering Code.

It shall be unlawful for any person in the City to change or amend by additions or deletions, any part or portion of this Code, or to insert or delete pages, or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the City of Nixa to be misrepresented thereby. Any person, firm, or corporation violating this section shall be punished as provided in Section 1-12 hereof.

Section 1-12. General Penalty; Continuing Violations.

- a. Whenever in this Code or in any ordinance or resolution of the city any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in such Code, ordinance or resolution, the doing of any act is required or the failure to do any act is declared to be unlawful or an offense or a misdemeanor, where no specific penalty is provided therefore, the violation of any such provision of this Code, ordinance or resolution shall be punished by a fine of not exceeding five hundred dollars (\$500.00) or by imprisonment in the city prison not exceeding three (3) months, or by both such fine and imprisonment; provided, however, that in any case wherein the penalty for an offense is fixed by state law or statute shall be imposed for the punishments of such offense and no other, except that imprisonments, when made under this section may be in the city jail instead of the county jail. Each day any violation of any provision of this Code, or of any such ordinance, or resolution shall constitute a separate offense.

- b. In addition to the penalty provided for in subsection (a) of this section, any condition caused or permitted to exist in violation of any of the provisions of this Code, or ordinance, or resolution of the City shall be regarded as a new and separate offense.
- c. When a fine shall be imposed for the violation of any ordinance of the City of Nixa or any section thereof the court may also sentence the defendant to pay the cost of the action and to be imprisoned until such fine and costs are paid, in no case, however, to exceed three months, and the court may also issue an execution against the property of the defendant for said fine and costs.

Section 1-13. Prisoners May be Worked.

Any person convicted before the Municipal Judge and sentenced for a violation of any of the provisions of this Code or of any of the ordinances of the city, whether the punishment assessed be by fine or imprisonment, or both, may be put to work and required to perform labor upon any of the streets, public works, or buildings of the city until the judgment of the court had been complied with.

Section 1-14. Failure to Appear in Municipal Court.

- a. A person commits the offense of failure to appear in Municipal Court if (1) he has been issued a summons for a violation of any ordinance of the City of Nixa, and fails to appear before the Judge of the Municipal Court at the time and on the date on which he was summoned, or at the time or on the date to which the case was continued; (2) he has been released upon recognition of bond and fails to appear before the Judge of the Municipal Court at the time and on the date on which he was summoned, or at the time or on the date to which the case was continued; (3) he has been placed on Court supervised probation, and fails to appear before the Judge of the Municipal Court at the time specified by said Judge as a condition of the probation.
- b. Nothing in this section shall prevent the exercise by the Municipal Court of its power to punish for contempt.

