

**OFFICIALS
OF THE
CITY OF KIRKWOOD, MISSOURI**

Arthur J. McDonnell

Mayor

Gary Biedenstein
Timothy E. Griffin
Gina Jaksetic
Bob Sears
Paul W. Ward
Iggy Yuan

Council Members

Michael G. Brown

Chief Administrative Officer

Betty Montaña

City Clerk

John M. Hessel

City Attorney

ORDINANCE NO. 5407

An Ordinance Adopting and Enacting a New Code of Ordinances of the City of Kirkwood, Missouri; Establishing the Same and Its Effective Date; Providing for the Repeal of Certain Ordinances Not Included Therein, Except as Herein Expressly Provided; Providing for the Manner of Amending Such Code of Ordinances; and Providing a Penalty for the Violation Thereof.

Be It Ordained by the Council of the City of Kirkwood, Missouri as follows:

Section 1. There having heretofore been published by the Municipal Code Corporation, law publishers, Tallahassee, Florida, a Code of Ordinances, same being in looseleaf binder and here and now present before the Council consisting of Chapters 1 to 25, each inclusive, is hereby adopted and enacted as the "Code of Ordinances, City of Kirkwood, Missouri," and shall be treated and considered as a new and original comprehensive ordinance which shall supersede all other general and permanent ordinances of the City passed on or before July 16, 1970, to the extent provided in Section 2 hereof.

Section 2. That all provisions of such Code shall be in full force and effect from and after the 2nd day of August, 1971, and all ordinances of a general and permanent nature of the City of Kirkwood, enacted on final passage on or before July 16, 1970, and not included in such Code or recognized and continued in force by reference therein are hereby repealed from and after the 2nd day of August except as hereinafter provided. No resolution of the City is hereby repealed.

Section 3. That the repeal provided for in Section 2 hereof shall not affect the following:

- (a) 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 ordinance;
- (b) Any ordinance 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 obligation assumed by the City;
- (c) The administrative ordinances of the City, not in conflict or inconsistent with the provisions of such Code;
- (d) Any ordinance fixing salaries of officers or employees of the City;
- (e) Any appropriation ordinance;
- (f) Any right or franchise granted by the Council of the City to any person, firm, or corporation;
- (g) Any ordinance dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening, vacating, etc., any street or public way in the City;
- (h) Any ordinance establishing and prescribing the street grades of any street in the City;
- (i) Any ordinance establishing or altering sewer districts, or providing for local improvements, or assessing taxes therefor;

- (j) Any ordinance dedicating or accepting any plat or subdivision in the City, or providing regulations for the same;
- (k) Any ordinance annexing property to the City;
- (l) Any zoning ordinance of the City;
- (m) Any ordinance fixing utility rates and charges;
- (n) Any ordinance prescribing personnel rules or regulations not inconsistent with such Code;
- (o) Any ordinance enacted after July 16, 1970.

Such repeal shall not be construed to revive any ordinance or part of an ordinance which is repealed by this ordinance.

Section 4. That whenever in such Code an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor by the Mayor and Council, or whenever in such Code the doing of any act is required or the failure to do any act is declared to be unlawful by the Mayor and Council and no specific penalty is provided therefor the violation of any such provisions of such Code shall be punished as provided in Section 9 of this ordinance and Section 1-8 of such Code.

Section 5. That any and all additions and amendments to such Code when passed in such form as to indicate the intention of the Mayor and Council to make the same a part thereof shall be deemed to be incorporated in such Code that reference to the "Code of Ordinances, City of Kirkwood, Missouri," shall be understood and intended to include such additions and amendments.

Section 6. That in case of the amendment by the Mayor and Council of any section of such Code for which a penalty is not provided, the general penalty as provided in Section 9 of this ordinance and Section 1-8 of such Code shall apply to the section as amended; or in case such amendment contains provisions for which a penalty, other than the aforementioned general penalty is provided in another section in the same chapter, the penalty so provided in such other section shall be held to relate to the section so amended, unless such penalty is specifically repealed therein.

Section 7. That a copy of such Code shall be kept on file in the office of the City Administrator, preserved in loose-leaf form or in such other form as the Council may consider most expedient. It shall be the express duty of the City Administrator, or someone authorized by said officer, to insert in their designated places all amendments and all ordinances or resolutions which indicate the intention of the Mayor and Council to make the same a part of such Code when the same have been printed or reprinted in page form, and to extract from such Code all provisions which from time to time may be repealed by the Council. This copy of such Code shall be available for all persons desiring to examine the same.

Section 8. That it shall be unlawful for any person to change or alter by additions or deletions, any part or portion of such 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 Kirkwood to be misrepresented thereby. Any person violating this section shall be punished as provided in Section 9 of this ordinance.

Section 9. (a) Whenever in this ordinance or in any section of this Code of Ordinances or in any ordinance the doing of any act is required or is prohibited or is declared to be unlawful or a misdemeanor, and no specific fine or penalty is provided for a violation thereof, any person who shall be convicted of a violation of any such provision of the ordinance, the Code or any such ordinance shall, for each offense, be fined not less than five dollars (\$5.00), nor more than one hundred dollars (\$100.00) or be punished by imprisonment in jail not to exceed three (3) months or be punished by both fine and imprisonment.

(b) Each day's violation of, or failure, refusal or neglect to comply with, any provision of the Code or of any ordinance shall constitute a separate and distinct offense.

(c) This section shall not apply to any section of the Code or to any ordinance in which there is expressly provided a penalty for its violation, or for any offense, the penalty for the violation of which is fixed by statute.

Editor's note—It should be noted that subsequent to the adoption of this ordinance, § 1-8, providing for general penalties, Was amended by Ord. No. 5533, § 1, adopted Sept. 21, 1972, to increase the penalty provisions from "not less than five dollars (\$5.00), nor more than one hundred dollars (\$100.00)" to "not less than five dollars (\$5.00) nor more than five hundred dollars (\$500.00)."

Section 10. That all ordinances or parts of ordinances in conflict herewith, are to the extent of such conflict hereby repealed.

Section 11. That this ordinance shall become effective on the 2nd day of August, 1971.

PASSED AND APPROVED this 10th day of June, 1971.

(Signed) Robert G. Reim
Mayor, City of Kirkwood, Missouri

ATTEST:

(Signed) Max A. Durbin
City Administrator, City of Kirkwood, Missouri

[CERTIFICATE]

I, the duly appointed, qualified and acting Deputy City Clerk of the City of Kirkwood, Missouri, do hereby certify the above and foregoing to be a true and correct copy of Ordinance No. 5407, passed and approved on the 10th day of June, 1971.

GIVEN under my hand and the seal of the City of Kirkwood, Missouri, this 11th day of June, 1971.

/s/Claire S. Christmann
Deputy City Clerk

(SEAL)

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CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS

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

The ordinances embraced in the following chapters and sections shall constitute and be designated the "Code of Ordinances, City of Kirkwood, Missouri," and may be so cited.

Sec. 1-2. Rules of construction.

In the construction of this Code, and of all ordinances, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the council:

Charter. Whenever the word "charter" is used, it shall mean the Charter of the City of Kirkwood.

Chief administrative officer. Whenever the words "chief administrative officer" are used, they shall be construed to mean the chief administrative officer for the City of Kirkwood.

City attorney. Whenever the words "city attorney" are used, they shall be construed to mean the city attorney of the City of Kirkwood.

City clerk. Whenever the words "city clerk" are used, they shall be construed to mean the city clerk of the City of Kirkwood.

City corporation. Whenever the words "the city," "this city," "the corporation" or "this corporation" are used, they shall be construed as if the words "of Kirkwood, St. Louis County, Missouri," followed them.

Computation of time. Whenever a notice is required to be given or an act to be done, a certain length of time before any proceeding shall be had, the day on which such notice is given, or such act is done, shall not be counted in computing the time, but the day on which such proceeding is to be had shall be counted.

Corporate limits, corporation limits. Whenever the words "corporate limits," "corporation limits" or "city limits" are used, they shall mean the legal boundary of the City of Kirkwood.

Council. Whenever the word "council" is used, it shall be construed to mean the mayor and council members of the City of Kirkwood.

Council member. The words "council member" shall mean any person elected to that office.

County. The words "the county" or "this county" shall mean the County of St. Louis in the State of Missouri.

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Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

Interpretation. In the interpretation and application of my 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, unless the terms of the provision or section designates otherwise.

Keeper and proprietor. The words "keeper" and "proprietor" shall mean and include persons, firms, associations, corporations, clubs and partnerships, whether acting by themselves or through a servant, agent or employee.

Mayor. Whenever the word "mayor" is used, it shall mean the mayor of the City of Kirkwood.

Month. The word "month" shall mean a calendar month.

Municipal judge. Whenever the words "municipal judge" are used, they shall be construed to mean the municipal judge for the City of Kirkwood.

Name of officer. Whenever the name of an officer is given, it shall be construed as though the words "of the City of Kirkwood" were added.

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. A word importing the singular number only may extend and be applied to several persons and things as well as to one (1) person and thing.

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."

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 or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety, of the whole or of a part of such building or land.

Person. The word "person" shall extend and be applied to associations, clubs, societies, firms, partnerships and bodies politic and corporate as well as to individuals.

Personal property. The term "perso

GENERAL PROVISIONS

nal property" includes every species of property except real property, as herein described.

Premises. Whenever the word "premises" is used, it shall mean place or places.

Property. The word "property" shall include real and personal property.

Public place. The term "public place" shall mean any public street, park, cemetery, school yard, public library, municipal building or open space adjacent thereto.

Real property. The term "real property" shall include lands, tenements and hereditament.

Residence. The word "residence" shall be construed to mean the place adopted by a person as their place of habitation, and to which, whenever that person is absent, such person 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 their residence.

Seal. Whenever the word "seal" is used, it shall mean the city or corporate seal.

Sidewalk. The word "sidewalk" shall mean any portion of a street between the curblineline and the adjacent property line, intended for the use of pedestrians, excluding parkways.

Signature or subscription. The "signature" or "subscription" of a person shall include a mark when the person cannot write.

State. The words "the state" shall be construed to mean the State of Missouri.

Street. The word "street" shall be construed to embrace streets, avenues, boulevards, roads, alleys, lanes, viaducts and all other public highways in the city.

Tenant occupant. The words "tenant" or "occupant," applied to a building or land, shall include any person holding a written or oral lease or who occupies the whole or a part of such buildings or lands, either alone or with others.

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

Week. The word "week" shall be construed to mean seven (7) days.

Written in writing. The words "written or in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

Year. The word "year" shall mean a calendar year. (Gen. Ords. 1959, § 1.05; Ord. No. 7230, § 1,7-19-84)

Sec. 1-3. Catchlines of sections.

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

GENERAL PROVISIONS

Sec. 1-4. 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.

Sec. 1-5. Severability of parts of Code.

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 by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

Sec. 1-6. Amendments to Code.

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. 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. The deletion of any portion of the Code shall be prima facie evidence of such subsequent ordinances causing such deletion.

Amendments to any of the provisions of this Code should specifically refer to such Code sections. Additions to this Code should contain the Code sections to be added. Repeals of any provision of this Code should specifically refer to such Code sections. (Ord. No. 7230, § 2,7-19-84)

Sec. 1-7. 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 Kirkwood to be misrepresented thereby. Any person, firm or corporation violating this section shall be punished as provided in section 1-8 hereof.

Sec 1-8. General penalty; continuing violations.

(a) Any person who violates any provision of this Code or any ordinance of the city is guilty of an offense, and upon conviction in cases where no specific penalty is otherwise prescribed, shall be punished by a fine of not less than five dollars (\$5.00) nor more than **one thousand dollars (\$1,000.00)**, or by imprisonment for a period not exceeding **six (6) months**, or by both such fine and imprisonment.

(b) When a minimum fine only is prescribed for a violation of any provision of this Code or any ordinance of the city, the maximum fine which may be imposed in such instances is **one thousand dollars (\$1,000.00)**.

GENERAL PROVISIONS

(c) The employer or any person concerned with a violation of this Code or any ordinance shall also be liable to the prescribed penalty, in addition to the person who directly committed the violation.

(d) Each day a violation of this Code or any ordinance of the city continues shall constitute a separate offense. (Gen. Ords. 1959, § 1.07; Ord. No. 5533, § 1, 9-21-72)

(Ord. No. 8845, §1, 9-2-99)

Cross reference—Penalty for violation of Zoning Ordinance, App. A, Art. XVII, § 1.

Sec. 1-9. Prosecution where different penalties exist for same offense.

In all cases where the same offense may be made punishable, or shall be created by different clauses or sections of the ordinances of the city, the city attorney may elect under which to proceed; but not more than one recovery of fine or imprisonment shall be had against the same person for the same offense. (Ord. No. 7230, § 3, 7-19-84)