

Chapter 100

GENERAL PROVISIONS

ARTICLE I

City Incorporation and Seal

Section 100.010. Municipal Incorporation.

The inhabitants of the City of Diamond, as its limits now are or may hereafter be defined by law, shall be and continue a body corporate by the name of "The City of Diamond" and as such shall have perpetual succession, may sue and be sued, implead and be impleaded, defend and be defended in all courts of law and equity and in all actions whatever; may receive and hold property, both real and personal, within such City, and may purchase, receive and hold real estate within or without such City for the burial of the dead; and may purchase, hold, lease, sell or otherwise dispose of any property, real or personal, it now owns or may hereafter acquire; may receive bequests, gifts and donations of all kinds of property, and may have and hold one (1) common Seal, and may break, change or alter the same at pleasure, and may do any act, exercise any power and render any service which contributes to the general welfare, and all courts of this State shall take judicial notice thereof.

Section 100.020. City Seal.

- A. The Seal of the City of Diamond shall be circular in form, one and seven-eighths (1 7/8) inches in diameter, with the words "Newton County, Missouri" engraved across the face thereof, and the words "Seal of the City of Diamond" engraved on the face thereof and near the outer edge of said Seal, and the same is hereby declared to be adopted as the Seal of the City of Diamond.
- B. The City Clerk shall be the keeper of the common Seal of the City of Diamond, and any impression of said Seal to any contract or other writing shall have no validity or binding obligation upon the City unless such impression be accompanied by the attestation and signature of the City Clerk, and then only in cases authorized by law or the ordinances of this City.

ARTICLE II

General Code Provisions

Section 100.030. Contents of Code.

This Code contains all ordinances of a general and permanent nature of the City of Diamond, Missouri, and includes ordinances dealing with municipal administration,

municipal elections, building and property regulation, business and occupations, health and sanitation, public order, and similar objects.

Section 100.040. Citation of Code.

This Code may be known and cited as the "Municipal Code of the City of Diamond, Missouri".

Section 100.050. Official Copy of Code.

The Official Copy of this Code, bearing the signature of the Mayor and attestation of the City Clerk as to its adoption, shall be kept on file in the office of the City Clerk. Two (2) additional copies of this Code shall be kept in the City Clerk's office available for public inspection.

Section 100.060. Altering or Amending Code.

- A. It shall be unlawful for any person 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 Official Copy of the Code in any manner whatsoever which will cause the law of the City to be misrepresented thereby. Any person, firm or corporation violating this Section shall be punished as provided in Section 100.220 of this Code.
- B. This provision shall not apply to amendments, additions or deletions to this Code, duly passed by the Board of Aldermen, which may be prepared by the City Clerk for insertion in this Code.

Section 100.070. Numbering of Code.

Each Section number of this Code shall consist of two (2) parts separated by a period; the figure before the period referring to the Chapter number, and the figure after the period referring to the position of the Section in the Chapter. Both figures shall consist of three (3) digits.

Section 100.080. Definitions and Rules of Construction.

- A. In the construction of this Code and of all other ordinances of the City, the following definitions 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 Board of Aldermen of the City of Diamond, Missouri.

CITY — The words "*the City*" or "*this City*" or "*City*" shall mean the City of Diamond, Missouri.

COUNTY — The words "*the County*" or "*this County*" or "*County*" shall mean the County of Newton, Missouri.

DAY — A day of twenty-four (24) hours, beginning at 12:00 Midnight.

MAY — Is permissive.

MAYOR — An officer of the City, known as the Mayor of the Board of Aldermen of the City of Diamond, Missouri.

MONTH — A calendar month.

OATH — Includes an affirmation in all cases in which 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*", as 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 — May extend and be applied to bodies politic and corporate and to partnerships and other unincorporated associations.

PERSONAL PROPERTY — Includes money, goods, chattels, things in action and evidences of debt.

PRECEDING, FOLLOWING — When used by way of reference to any Section of this Code, shall mean the Section next preceding or next following that in which the reference is made, unless some other Section is expressly designated in the reference.

PROPERTY — Includes real and personal property.

PUBLIC WAY — Includes 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 lands, tenements and hereditaments.

SHALL — Is mandatory.

SIDEWALK — That portion of the street between the curb line and the adjacent property line which is intended for the use of pedestrians.

STATE — The words "*the State*" or "*this State*" or "*State*" shall mean the State of Missouri.

STREET — Includes 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.

WRITING, WRITTEN, IN WRITING AND WRITING WORD FOR WORD — Includes printing, lithographing, or 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/her mark, is intended.

YEAR — A calendar year, unless otherwise expressed, and the word "year" shall be equivalent to the words "year of our Lord".

- B. *Newspaper.* Whenever in this Code or other ordinance of the City it is required that notice be published in the "official newspaper" or a "newspaper of general circulation published in the City", and if there is no newspaper published within the City, the said notice shall be published in a newspaper of general circulation within the City, regardless of its place of publication. Such newspaper shall not include an advertising circular or other medium for which no subscription list is maintained.

Section 100.090. Words and Phrases — How Construed.

Words and phrases shall be taken in their plain or ordinary and usual sense, but technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

Section 100.100. Headings.

The headings of the Chapters and Sections of this Code are intended as guides and not as part of this Code for purposes of interpretation or construction.

Section 100.110. Continuation of Prior Ordinances.

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 this Code, shall be considered as a continuation thereof and not as new enactments.

Section 100.120. EFFECT OF REPEAL OF ORDINANCE.

- A. No offense committed and no fine, penalty or forfeiture incurred, or prosecution commenced or pending previous to or at the time when any ordinance provision is repealed or amended, shall be affected by the repeal or amendment, but the trial and punishment of all such offenses and the recovery of the fines, penalties or forfeitures shall be had, in all respects, as if the provision had not been repealed or amended, except:
1. All such proceedings shall be conducted according to existing procedural laws; and
 2. If the penalty or punishment for any offense is reduced or lessened by any alteration of the law creating the offense prior to original sentencing, the penalty or punishment shall be assessed according to the amendatory law.

Section 100.130. Repealing Ordinance Repealed — Former Ordinance Not Revived — When.

When an ordinance repealing a former ordinance, clause or provision is itself repealed, it does not revive the former ordinance, clause or provision, unless it is otherwise expressly provided; nor shall any ordinance repealing any former ordinance, clause or provision abate, annul or in anywise affect any proceedings had or commenced under or by virtue

of the ordinance so repealed, but the same is as effectual and shall be proceeded on to final judgment and termination as if the repealing ordinance had not passed, unless it is otherwise expressly provided.

Section 100.140. Severability.

It is hereby declared to be the intention of the Board of Aldermen that the Chapters, Sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph, Section or Chapter 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, Sections and Chapters 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 100.150. Tense.

Except as otherwise specifically provided or indicated by the context, all words used in this Code indicating the present tense shall not be limited to the time of adoption of this Code but shall extend to and include the time of the happening of any act, event or requirement for which provision is made herein, either as a power, immunity, requirement or prohibition.

Section 100.160. Notice.

- A. Whenever notice may be required under the provisions of this Code or other City ordinance, the same shall be served in the following manner:
1. By delivering the notice to the person to be served personally or by leaving the same at his/her residence, office or place of business with some person of his/her family over the age of fifteen (15) years;
 2. By mailing said notice by certified or registered mail to such person to be served at his/her last known address; or
 3. If the person to be served is unknown, or may not be notified under the requirements of this Section, then by posting said notice in some conspicuous place at least five (5) days before the act or action concerning which the notice is given is to take place. No person shall interfere with, obstruct, mutilate, conceal or tear down any official notice or placard posted by any City Officer, unless permission is given by said officer.

Section 100.170. Notice — Exceptions.

The provisions of the preceding Section shall not apply to those Chapters of this Code wherein there is a separate definition of notice.

Section 100.180. Computation of Time.

In computing any period of time prescribed or allowed by this Code or by a notice or order issued pursuant thereto, the day of the act, event or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

Section 100.190. 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.

Section 100.200. Joint Authority.

Words importing joint authority to three (3) or more persons shall be construed as authority to a majority of such persons unless otherwise declared in the law giving the authority.

Section 100.210. 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; and when words importing the plural number are used, the singular shall be included.

**ARTICLE III
Penalty**

Section 100.220. General Penalty.

- A. Whenever in this Code or any other ordinance of the City, or in any rule, regulation, notice or order promulgated by any officer or agency of the City under authority duly vested in him/her or it, any act is prohibited or is declared to be unlawful or an offense, misdemeanor or ordinance violation or 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 or ordinance violation, and no specific penalty is provided for the violation thereof, upon conviction of a violation of any such provision of this Code or of any such ordinance, rule, regulation, notice or order, the violator shall be punished by a fine not exceeding five hundred dollars (\$500.00) or by imprisonment in the City or County Jail not exceeding ninety (90) days, or by both such fine and imprisonment; provided, that in any case wherein the penalty for an offense is fixed by a Statute of the State, the statutory penalty, and no other, shall be imposed for such offense, except that imprisonments may be in the City prison or workhouse instead of the County Jail.

- B. Every day any violation of this Code or any other ordinance or any such rule, regulation, notice or order shall continue shall constitute a separate offense.
- C. Whenever any act is prohibited by this Code, by an amendment thereof, or by any rule or regulation adopted thereunder, such prohibition shall extend to and include the causing, securing, aiding or abetting of another person to do said act. Whenever any act is prohibited by this Code, an attempt to do the act is likewise prohibited.