

## MISSOURI STATE LAWS

State law changes in Missouri impact many provisions in the ordinances and codes of Missouri cities. This pamphlet is intended to assist city attorneys in the identification of provisions in ordinance codes that may require revision in light of state law. The information in this pamphlet is based upon the experience of the legal staff of Municipal Code Corporation in working with the ordinances and codes of Missouri cities.

This pamphlet is current through legislation approved through the 2017 First Regular Session and First and Second Extraordinary Sessions of the 99th General Assembly.

Not all provisions of this pamphlet will apply to your Code, nor does this pamphlet purport to include all state laws that may somehow affect the language of your Code.

The provisions of this pamphlet are intended to assist city attorneys and are not intended to be a substitute for the advice of counsel.

It is not the intent of Municipal Code Corporation in publishing this pamphlet to provide legal advice. An attorney admitted to practice in Missouri must be consulted as to the applicability of a given statute or case to a particular situation.

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## GENERAL PROVISIONS

1. *Penalties for certain ordinance violations.* Maximum penalties for certain ordinance violations have been restricted. See RSMo 479.350, 479.353.

## ADMINISTRATION

1. *Political activities of first responders.* The power to restrict political activities of first responders is limited. See RSMo 67.145.

## **ALCOHOLIC BEVERAGES**

1. *General regulatory authority.* The provisions of RSMo ch. 312 pertaining to nonintoxicating beer have been repealed. Nonintoxicating beer is now regulated in RSMo ch. 311 in the same manner as intoxicating liquor.

## **ANIMALS**

1. *Relationship between persons and domestic animals.* No political subdivision of the state nor any local government, city or county, or any agency, authority, board, commission, department or officer thereof, shall enact any ordinance or promulgate or issue any regulation, rule, policy, guideline or proclamation describing the relationship between persons and domestic animals as other than persons may or can own domestic animals. RSMo 67.140.

## **BUILDINGS AND BUILDING REGULATIONS**

1. *Electricians.* In certain counties, cities of 120,000 or less may not license electricians who are licensed by the county. See RSMo 64.190. In addition, certain local electrical contractors licenses have statewide validity. See RSMo 67.275.

2. *Dangerous buildings.* Ordinances requiring vacation, demolition or repair of structures are restricted and regulated. See RSMo 67.400 et seq.

## **BUSINESSES**

1. *Denial of license for lack of good moral character.* The power of a city to deny a license for an occupation or profession primarily upon the basis that a felony or misdemeanor conviction of the applicant precludes the applicant from demonstrating good moral character is restricted. See RSMo 314.200.

2. *Convenience business security standards.* Security standards for convenience business cannot differ from state law. See RSMo 407.980.

3. *Installment loan lenders.* Subject to certain exceptions, municipalities may not modify current state law governing the manner in which traditional loan installers are allowed to make loans. See RSMo 408.512.

4. *Massage.* Subject to certain exceptions, licensing or regulation of massage therapists or massage businesses is preempted to the state. See RSMo 324.272.

## **ENVIRONMENT**

1. *Pesticides.* Local regulation of pesticides is restricted. See RSMo 281.005.

## **OFFENSES AND MISCELLANEOUS PROVISIONS**

1. *State criminal code--General revision.* The state criminal code has been revised; major revisions include:

- a. Creation of the new Class D misdemeanor and Class E felony classifications, together with extensive restructuring of criminal penalties.
- b. Addition of "infractions" with penalties limited to fines.
- c. A new definition of dangerous felonies and reclassification of certain misdemeanors as felonies.
- d. Restructuring of classes and penalties for aggravated sexual offenses and habitual offenders.

- e. Consolidation of assault offenses and addition of enhanced penalties for assaults on certain classes of "special victims."
- f. Division of domestic assault offenses to include 1st through 4th degrees.
- g. Restructuring of offense classes and penalties for marijuana and drug paraphernalia related offenses.

2. *Prostitution.* Ordinances relating to conduct under RSMo 567.050--567.070 (promoting prostitution in the first, second or third degree) are preempted. See RSMo 567.090. Ordinances prohibiting and penalizing conduct subject to criminal or civil penalties or sanctions under other provisions of RSMo ch. 567 are restricted. See RSMo 567.090.

3. *Gambling.* Ordinances relating to conduct covered by RSMo ch. 572 (gambling) are preempted. See RSMo 572.100.

4. *Obscenity.* Ordinances punishing conduct covered by RSMo 573.020 (promoting obscenity in the first degree) are preempted. See RSMo 573.080.

5. *Public intoxication.* Except as provided in RSMo 67.310, no city may adopt or enforce a law, rule or ordinance which authorizes or requires arrest or punishment for public intoxication or being a common or habitual drunkard or alcoholic. See RSMo 67.305.

6. *Charitable solicitations in roads.* Local ordinances regulating standing in roads to solicit a charitable contribution are restricted and regulated. See RSMo 67.304.

7. *Breast-feeding.* Ordinances prohibiting breast-feeding are prohibited by RSMo 191.918.

8. *Firearms.* Local regulation of firearms is restricted. See RSMo 21.750.

9. *Abortions.* Per RSMo 188.125:

- a. Municipalities are preempted from enacting, adopting, maintaining, or enforcing any order, ordinance, rule, regulation, policy, or other similar measure that prohibits, restricts, limits, controls, directs, interferes with, or otherwise adversely affects an alternatives to abortion agency or its officers', agents', employees', or volunteers' operations or speech, including, but not limited to, counseling, referrals, or education of, advertising or information to, or other communications with, clients, patients, other persons, or the public.
- b. Municipalities are preempted from enacting, adopting, maintaining, or enforcing any order, ordinance, rule, regulation, policy, or other similar measure that has the purpose or effect of requiring a person to directly or indirectly participate in abortion if such participation is contrary to the religious beliefs or moral convictions of such person.
- c. Municipalities are prohibited from enacting, adopting, maintaining, or enforcing any order, ordinance, rule, regulation, policy, or other similar measure requiring a real estate broker, real estate salesperson, real estate broker-salesperson, appraisal firm, appraiser, as such terms are defined in chapter 339, a property owner, or any other person to buy, sell, exchange, purchase, rent, lease, advertise for, or otherwise conduct real estate transactions for, to, or with an abortion facility or for, to, or with a person for the purpose of performing or inducing an abortion not necessary to save the life of the mother, if such requirement is contrary to the religious beliefs or moral convictions of such real estate broker, real estate salesperson, real estate broker-salesperson, appraisal firm, appraiser, property owner, or other person.
- d. Municipalities are preempted from enacting, adopting, maintaining, or enforcing any order, ordinance, rule, regulation, policy, or other similar measure requiring an employer, employee, health plan provider, health plan sponsor, health care provider, or any other person to provide coverage for or to participate in a health plan that includes benefits that are not otherwise required by state law.

## SIGNS

1. *Real estate.* A city ordinance may not forbid or restrict a real property owner from displaying a sign of reasonable dimensions, as may be determined by ordinance, that advertises the property for sale, lease or exchange and that complies with specified requirements. See RSMo 67.317.
2. *Outdoor advertising.* The fee a city may charge for inspection of an outdoor advertising structure and the business tax imposable on an outdoor advertising structure is limited. See RSMo 71.288.
3. *United States flag.* A municipality may not regulate the exhibition of a properly displayed United States flag. See RSMo 71.286.

## SUBDIVISIONS

1. *Transect-based zoning.* Subdivision ordinances based on transect-based (i.e., smart growth) zoning governing street configuration requirements, including number and locations of parking spaces, street, drive lane, and cul-de-sac lengths and widths, turning radii, and improvements within the right-of-way, prevail over any other conflicting or more restrictive zoning provisions adopted by code or ordinance of another political subdivision with jurisdiction in the city. See RSMo 89.400.

## TAXATION

1. *Cigarettes.* Municipal taxation of cigarettes and tobacco products is restricted. See RSMo 149.192.

## TELECOMMUNICATIONS

1. *Amateur radio service.* The adoption of ordinances relating to amateur radio service and antennas is restricted. See RSMo 67.329.
2. *Video service providers.* Subject to certain exceptions, video service providers who have been issued a video service provider authorization by the state are exempt from local franchises. See RSMo 67.2675 et seq.

## TRAFFIC AND VEHICLES

1. *Model traffic ordinance—Identification of funeral processions eliminated.* The provisions of RSMo 300.320 have been repealed.
2. *Texting while driving.* Regulation of the use of hand-held electronic wireless communications devices in motor vehicles is preempted to the state. See RSMo 304.820.
3. *Transportation network companies ("Uber").* The licensing and regulation of transportation network companies and transportation network company drivers is preempted to the state. See RSMo 387.430.

## UTILITIES

1. *Right-of-way management.* The adoption of ordinances relating to the use of public rights-of-way by utilities is regulated and restricted. See RSMo 67.1830 et seq.

## ZONING

1. *Transect-based zoning.* Transect-based (i.e., smart growth) zoning provisions adopted by a city governing street configuration requirements, including number and locations of parking spaces, street, drive lane, and cul-de-sac lengths and widths, turning radii, and improvements within the right-of-way, prevail over zoning provisions adopted by another political subdivision with jurisdiction in the city. See RSMo 89.010.
2. *Penalties.* Maximum authorized penalties for violations of zoning ordinances exist. See RSMo 89.120.

3. *Group homes and foster parent homes.* Zoning of certain group homes for mentally or physically handicapped persons or foster children is restricted. See RSMo 89.020(2), (6).