

Chapter 100. General Provisions

Article IV. Ordinance Enforcement and Penalties

Section 100.180. Ordinance Enforcement.

[R.O. 2008 §10.270; Ord. No. 992, 12-28-1971; Ord. No. 1040, 10-24-1972; Ord. No. 2252, 8-24-2004; Ord. No. 2282, 6-28-2005]

A. *General Penalty.*

1. Whenever in this Code or in any ordinance of the City or in any rule, regulation, notice, condition, term 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 or misdemeanor 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, where no specific penalty is provided therefor, the violation of any such provision of this Code or any such ordinance, rule, regulation, order or notice shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) or by imprisonment not to exceed ninety (90) days, or by both such fine and imprisonment, but in any case wherein a lesser penalty for an offense is fixed by any Statute, the statutory limit shall apply.
2. Except where otherwise provided, each and every day any such chargeable violation exists, each such day shall constitute a separate offense.
3. 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.
4. In case of the amendment by the City Council of any Section of such Code for which a penalty is not provided, the general penalty as provided in Subsection (A) of this Section shall apply to the Section as amended. If an 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.
5. *Minor traffic and Municipal ordinance violations.* The punishment of a "minor traffic violation" and a "municipal ordinance violation" as defined by Section 300.010 of the Olivette Municipal Code shall be subject to the following:
[Ord. No. 2560 § 2, 8-25-2015; Ord. No. 2595 § 3, 9-27-2016]
 - a. The maximum fine and court costs that can be imposed for the violation of:
 - (1) Any minor traffic violation shall be two hundred twenty-five dollars (\$225.00); and
 - (2) For any municipal ordinance violation(s) committed within a twelve (12) month period beginning with the first violation, two hundred dollars (\$200.00) for the first violation, two hundred seventy-five dollars (\$275.00) for the second violation, three hundred fifty dollars (\$350.00) for the third violation, and four hundred fifty dollars (\$450.00) for the fourth and any subsequent violation.

- b. Minor traffic violations and municipal ordinance violations shall not be punishable by imprisonment, unless the violation: (i) involved alcohol or controlled substances, (ii) endangered the health or welfare of others, or (iii) involved eluding or giving false information to a law enforcement officer.
 - c. A person convicted of a minor traffic violation or a municipal ordinance violation shall not be placed in confinement for failure to pay a fine unless such nonpayment violates the terms of the person's probation or unless the due process procedures mandated by the Missouri Supreme Court Rule 37.65 or its successor are strictly followed by the court.
 - d. Court costs shall be assessed against such person unless the court finds that the defendant is indigent or the case is dismissed.
- B. *Equitable Relief.* In addition to any other remedies or penalties established for violations of any ordinance or Code Section or any rule, regulation, notice, condition, term or order promulgated by any officer or agency of the City under duly vested authority, the City Official responsible for the enforcement of such ordinance, Code Section, rule, regulation, notice, condition, term or order may, on behalf of the City and after approval by the City Council, apply to a court of competent jurisdiction for such legal or equitable relief as may be necessary to enforce compliance with such ordinance, Code Section, rule, regulation, notice, condition, term or order. In such action the court may grant such legal or equitable relief, including, but not limited to, mandatory or prohibitory injunctive relief, as the facts may warrant. Upon the successful prosecution of any such action, the City may be awarded by the court reasonable attorney fees as allowed by law.
- C. *Restrictions On Delinquent Applicants.*

1. For the purposes of this Section, the following terms shall have the following meanings:

APPLICANT

An individual or a corporation, firm, partnership, joint venture, association, organization or entity of any kind, including any shareholder, owner, officer, partner, joint venturer or member of such entity or any other person holding an ownership interest in such entity requesting any City permit, license, franchise or other approval.

RELATED PERSON OR ENTITY

- a. A firm, partnership, joint venture, association, organization or entity of any kind in which the applicant holds any stock, title or other ownership interest of at least twenty percent (20%),
- b. A firm, partnership, joint venture, association, organization or entity of any kind which holds any stock, title or other ownership interest in the applicant of at least twenty percent (20%), or
- c. An individual, firm, partnership, joint venture, association, organization or entity of any kind, whose affairs the applicant has the legal or practical ability to direct, either directly or indirectly, whether by contractual agreement, majority ownership interest, any lessor ownership interest, familial relationship or in any other manner.

RELEVANT LAW

- a. Any Statute or regulation of the United States or the State of Missouri,
- b. Any ordinance or Code Section of the City or any rule, regulation, notice, condition, term or order promulgated by any officer or agency of the City under duly vested authority, or
- c. Any final judgment or order of any court of competent jurisdiction, when a Statute, ordinance, Code Section, rule, regulation, notice, condition, term, order or judgment at issue regulates conduct or conditions germane to the issuance of the requested permit, license, franchise or other approval as provided by the applicable Statute, ordinance or Code Section of the City Council.

2. In enforcing or administering the ordinances of the City, no permit, license, franchise or approval of any kind shall be granted to any applicant if the applicant or a related person or entity is charged with, or in violation of, any relevant law until such time as the applicant or the related person or entity resolves the pending charge or comes into compliance with the relevant law. This shall include any unpaid obligations or debts to the City of Olivette, including special assessments on applicable property.
3. In acting on any new application or on any reapplication by an applicant whose prior permit, license, franchise or other approval has been denied, suspended, revoked or forfeited, the reviewing or enforcement officer may consider past violations of relevant law by the applicant or a related person or entity in considering whether to issue the permit, license, franchise or approval requested by the applicant. Taking into account the nature and character of the permit, license, franchise or other requested approval in question and the need for the City to rely on representations and/or future conduct by the applicant when acting pursuant to the permit, license, franchise or other requested approval by the City, the reviewing or enforcement officer may deny the application or reapplication if the past violations of relevant law are reasonably recent in time and of such character or magnitude as to reasonably call into question the fitness of the applicant or the City's ability to rely on representations and/or future conduct by the applicant.
4. If a permit, license, franchise or other approval has been denied, suspended, revoked or forfeited, the applicant may not submit a new application for one (1) year from the date of the denial, suspension, revocation or forfeiture unless the reviewing or enforcement officer finds that substantial new facts or a change in circumstances warrant reconsideration; provided however, that if the ordinances governing the particular permit, license, franchise or other approval in question prescribe a different disqualification period, those ordinances shall govern.
5. Any aggrieved applicant may appeal the decision of the reviewing or enforcement officer to the City Manager within five (5) business days of said decision. The City Manager may reverse or modify the decision of the reviewing or enforcement officer provided the applicant:
 - a. Establishes a good faith effort to effect compliance with this Section and any relevant law,
 - b. Establishes an inability to effect compliance with any relevant law because of the ownership structure of any pertinent related entity, if the denial in question was due to conduct or circumstances of a related person or entity, or
 - c. Establishes that the applicant has not been charged with a violation of relevant law or is or, if applicable, was not in violation of relevant law.