

PUBLIC MEETING NOTICE

CENTRAL CITY ECONOMIC DEVELOPMENT SALES TAX BOARD

A public meeting of the Central City Economic Development Sales Tax Board will take place at the following place and time:

Wednesday, October 18, 2017

8:30 a.m.

Robert J. Mohart Multipurpose FOCUS Center

3200 Wayne Ave., Kansas City, Missouri 64109

For the purposes of taking up the following matters:

Tentative Agenda

- A. Call to order
- B. Administration/Acknowledgment of oath(s) of office
- C. Adoption of bylaws
- D. Appointment of officers
- E. Adoption of Open Records/Sunshine Compliance Policy
- F. Review of ethics/conflicts of interest matters
- G. Adjournment

Additional Business

- There may be general discussion of matters related to the Central City Economic Development Sales Tax.
- Pursuant to subsection (1) of Section 610.021 of the Revised Statutes of Missouri, there may be a closed session to discuss legal matters, litigation or privileged communications with attorneys.

Any person with a disability desiring reasonable accommodation to attend this meeting should contact the City's 311 Action Center at (816) 513-1313 or send an e-mail to meg.conger@kcmo.org at least 24 hours prior to the meeting.

CENTRAL CITY ECONOMIC DEVELOPMENT SALES TAX BOARD

Resolution No. 2017-1

Acknowledging the board members' acceptance of appointment and oath of office.

WHEREAS, pursuant to Ordinance No. 160861, As Amended, and an election held on April 4, 2017, the City of Kansas City, Missouri, caused a one-eighth cent economic development sales tax to be imposed for the benefit of an area bounded by 9th Street on the north, Gregory Boulevard on the south, The Paseo on the west, and Indiana Avenue on the east; and

WHEREAS, pursuant to Section 68-449(c), Code of Ordinances, and Section 67.1305.12, RSMo, a five-member board, denominated as the Central City Economic Development Sales Tax Board (the "Board"), was established; and

WHEREAS, the Kansas City, Missouri School District has appointed Ron Finley to the Board; and

WHEREAS, Jackson County, Missouri has appointed Melissa Patterson Hazley to the Board; and

WHEREAS, the City of Kansas City, Missouri has appointed Keith Brown, Donna Wilson and Herbert Hardwick to the Board; and

WHEREAS, each of the aforementioned appointees have accepted such appointments and have taken the prescribed oath of office; NOW, THEREFORE,

BE IT RESOLVED BY THE BOARD OF DIRECTORS:

Section 1. That each member's execution of the oath of office is hereby acknowledged and those persons identified herein have been lawfully appointed as the members of the Central City Economic Development Sales Tax Board.

Herbert Hardwick
Chairperson

October 18, 2017
Date of Adoption

CENTRAL CITY ECONOMIC DEVELOPMENT SALES TAX BOARD

Resolution No. 2017-2

Adopting bylaws for the Central City Economic Development Sales Tax Board.

WHEREAS, the Central City Economic Development Sales Tax Board desires to adopt bylaws and has determined that such bylaws will provide an efficient and effective structure for its governance and affairs; NOW, THEREFORE,

BE IT RESOLVED BY THE BOARD OF DIRECTORS:

Section 1. That the bylaws in the form attached hereto are approved and adopted.

Section 2. That the Secretary is authorized and directed to execute the bylaws.

Herbert Hardwick
Chairperson

October 18, 2017

Date of Adoption

**BYLAWS OF THE
CENTRAL CITY ECONOMIC DEVELOPMENT
SALES TAX BOARD**

**ARTICLE I
THE BOARD**

Section 1.1 Name of Board. The name of the Board is the Central City Economic Development Sales Tax Board.

**ARTICLE II
BOARD OF DIRECTORS**

Section 2.1 General Powers. The Board of Directors (the "Board") shall possess and may exercise all of the Board's powers as provided in Section 67.1305, RSMo, and Section 68-449, Code of Ordinances, as each of the foregoing may be amended from time-to-time.

Section 2.2 Number, Appointment and Tenure. The Board shall consist of five (5) members, to be appointed as provided in Section 68-449(c), Code of Ordinances. The members appointed by the Kansas City, Missouri School District (which shall have one (1) member) and Jackson County, Missouri (which shall have one (1) member) shall each initially be appointed to a term of two (2) years. The three (3) members appointed by the City of Kansas City, Missouri shall be appointed such that one (1) member shall initially be appointed to a term of two (2) years, and two (2) members shall initially be appointed to terms of four (4) years. Each member shall thereafter be appointed, or reappointed, to a term of four (4) years. Each Board member shall hold their respective seat on the Board until the term to which they were appointed, or reappointed, shall have lapsed, or until that member's incapacity, disability, resignation, death or removal by the entity appointing said member, whichever shall first occur.

Section 2.3 Annual Meetings. The Board shall hold an annual meeting each year for the purpose of electing officers, with the exception of the Chairperson which shall be appointed by the Mayor of the City of Kansas City, Missouri. Annual meetings shall be held at any such place as may be determined by the Board.

Section 2.4 Regular Meetings. The Board shall hold such meetings from time-to-time as it shall determine to be appropriate for purposes of exercising its powers. Regular meetings shall be held at any such place(s) as may be determined by the Board.

Section 2.5 Special Meetings. Special meetings of the Board may be called by or at the request of the chairperson or any other three Board members for the purpose of transacting any business designated in the notice for such meeting, and shall be held at any place as the person(s) calling the meeting may determine. At such special meetings no business shall be considered other than that designated in the notice.

Section 2.6 Notice. Written notice, as required by statute regulating meetings of public governmental bodies, shall be delivered by hand, mail, electronic mail or facsimile to each Board member at least twenty-four (24) hours prior to the scheduled annual, regular or special meeting. If mailed, notice shall be deemed delivered on the second business day after deposit in the United States mail, addressed to the member at his/her address as it appears on the Board's records, with

postage prepaid. Each member may waive this notice requirement for any meeting by written consent given before, during, or after such meeting. Notice, as required by statute regulating meetings of public governmental bodies, must be posted at a conspicuous place open to the public at least twenty-four (24) hours prior to the scheduled annual, regular or special meeting.

Section 2.7 Quorum. A simple majority of the Board shall constitute a quorum for the transaction of business, and the acts of a majority of the members present at a meeting at which a quorum is present shall constitute the acts of the Board. If a quorum is not present at any meeting of the Board, or is lost during the course of any meeting of the Board, the meeting shall be adjourned until a quorum is present.

Section 2.8 Telephone Participation. Members may participate in a meeting of the Board by means of a conference telephone call or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting in this manner shall constitute presence in person at the meeting.

Section 2.9 Manner of Voting. The voting on all questions coming before the Board shall be by voice vote unless the presiding officer directs, or any member demands a vote by roll call or by ballot. In the case of an abstention or nay vote, the member so abstaining or voting nay shall be identified in the minutes of such meeting.

Section 2.10 Compensation. Members shall not receive any compensation or reimbursement for their services to the Board.

Section 2.11 Open Meeting and Records. Sections 610.010 through 610.035 RSMo (the Missouri Sunshine Law), shall apply to all meetings and records of the Board and the Board shall not close any meetings or records of the Board, unless so permitted by law.

ARTICLE III OFFICERS

Section 3.1 Enumeration of Offices. The officers of the Board shall be a Chairperson appointed by the Mayor of the City of Kansas City, Missouri, and a Vice-Chairperson, Secretary and Treasurer, each of which shall be elected and appointed from among the membership of the Board. The positions of Secretary and Treasurer may be combined and held by the same person.

Section 3.2 Appointment and Term of Office. At its first meeting, the Board shall elect a Vice-Chairperson, Secretary and Treasurer. Thereafter, the Vice-Chairperson, Secretary and Treasurer shall be elected annually by the Board at the annual meeting of the Board. If an election is not made at such meeting, then such election shall be held as soon thereafter as convenient. Each officer shall hold office until that officer's successor has been duly appointed or elected, as is applicable, or until that officer's incapacity, disability, resignation, death or removal.

Section 3.3 Vacancies. Vacancies in the office of Vice-Chairperson, Secretary and Treasurer, however caused, may be filled by the Board at any time for the unexpired terms of such offices.

Section 3.4 Chairperson: Powers and Duties. The Chairperson shall have the following powers and duties:

- (a) Preside at all meetings of the Board at which the Chairperson shall be present; and
- (b) Make reports to the Board and government agencies, on behalf of the Board, as required by law; and
- (c) Generally perform all duties incident to the office of Chairperson and such other duties as may be prescribed by the Board.

Section 3.5 Vice-Chairperson: Powers and Duties. The Vice-Chairperson shall exercise the powers of the Chairperson in the case of the absence or inability to act of the Chairperson.

Section 3.6 Treasurer: Powers and Duties. The Treasurer shall have the following powers and duties:

- (a) Report to the Board as to the revenues on deposit and available to be expended within the Central City Economic Development Sales Tax Fund maintained by the City of Kansas City, Missouri; and
- (b) Perform all of the duties incidental to the office of the Treasurer and such other duties as may be assigned to the Treasurer by the Chairperson or the Board.

Section 3.7 Secretary: Powers and Duties. The Secretary shall have the following powers and duties:

- (a) Keep, or cause to be kept, the minutes for the meetings of the Board in or more books provided for that purpose; and
- (b) Ensure that all notices are duly given in accordance with the Bylaws and as required by law; and
- (c) Serve as custodian of record for the Board; and
- (d) Perform all duties incidental to the office of Secretary and such other duties as may be assigned to the Secretary by the Chairperson or the Board.

Section 3.8 General Administration. The Board shall utilize the services of one or more employees of the City of Kansas City, Missouri as shall be designated by the City Manager for the purpose of providing such administrative assistance as may be required. Such employee(s) may, subject to consent of the Board, perform such functions as might otherwise be performed by an officer, including without limitation:

- (a) Keeping, or causing to be kept, the minutes for the meetings of the Board; and
- (b) Ensuring that all notices are duly given in accordance with the Bylaws and as required by law; and
- (c) Acting as custodian of records for the Board; and

- (d) Compiling and providing such data with respect to the Central City Economic Development Sales Tax, and economic development plans and economic development projects funded therewith, as the Board may request; and
- (e) Drafting such reports as the Chairperson, on behalf of the Board, may be required by law to make; and
- (f) Performing such duties as may be requested by the Chairperson or the Board.

Section 3.9. Professional Assistance. The Board may request that the City Manager of the City of Kansas City, Missouri cause the City to retain, on its behalf and for its benefit, any professional assistance that the Chairperson or the Board may deem advisable, provided however that the provision of such assistance shall be made and funded at the discretion of the City of Kansas City, Missouri.

Section 3.10 Delegation of Duties. In case of the absence of any officer of the Board, for any reason that the Board may deem sufficient, the Board may delegate the power or duties of such officer to another Board member for the interim, provided a majority of the Board concurs.

ARTICLE IV BOOKS AND RECORDS

Section 4.1 Books, and Records. The Board shall keep or cause to be kept correct and complete books and records of account for the Board and shall also keep minutes of the proceedings of the Board.

ARTICLE V NOTICE AND WAIVER

Section 5.1 Written Waiver. Whenever any notice is required under the provisions of these Bylaws or under the provisions of applicable law, a waiver thereto in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice, provided, however, that the waiver of notice by any such person shall in no way be deemed to waive or modify any notice that is required by the Missouri Sunshine Law.

ARTICLE VI AMENDMENT OF BYLAWS

Section 6.1 Amendments. These Bylaws may be altered, amended, provisions deleted, or new provisions added by a majority of the members present at any properly called annual, regular or special meeting.

The foregoing Bylaws were adopted on this 18th day of October, 2017 pursuant to Resolution No. 2017-2.

Secretary

CENTRAL CITY ECONOMIC DEVELOPMENT SALES TAX BOARD

Resolution No. 2017-3

Appointing officers of the Central City Economic Development Sales Tax Board.

WHEREAS, pursuant to Resolution No. 170733, adopted on September 21, 2017, the City Council appointed Herbert Hardwick as the Chairperson of the Central City Economic Development Sales Tax Board; and

WHEREAS, the bylaws of the Central City Economic Development Sales Tax Board require the appointment of certain additional officers; and

WHEREAS, the Chairperson and such additional officers as are provided for within the bylaws shall have, hold and exercise the powers and duties as described therein; NOW, THEREFORE,

BE IT RESOLVED BY THE BOARD OF DIRECTORS:

Section 1. That _____ is appointed Vice-Chairperson of the Central City Economic Development Sales Tax Board.

Section 2. That _____ is appointed Secretary of the Central City Economic Development Sales Tax Board.

Section 3. That _____ is appointed Treasurer of the Central City Economic Development Sales Tax Board.

Section 4. That the officers shall exercise those powers and perform those duties for such terms as are set forth in the bylaws.

Herbert Hardwick
Chairperson

October 18, 2017
Date of Adoption

CENTRAL CITY ECONOMIC DEVELOPMENT SALES TAX BOARD

Resolution No. 2017-4

Adopting an Open Records/Sunshine Compliance Policy.

WHEREAS, the Central City Economic Development Sales Tax Board was created by statute and is a public governmental body as defined by Section 610.010, RSMo; and

WHEREAS, as a public governmental body, the Central City Economic Development Sales Tax Board is subject to the provisions of Sections 610.010—610.225, RSMo, as the same may be amended from time-to-time (the "Sunshine Act"); and

WHEREAS, the Central City Economic Development Sales Tax Board desires to ensure that it conducts itself in conformity with the Sunshine Act; NOW, THEREFORE,

BE IT RESOLVED BY THE BOARD OF DIRECTORS:

Section 1. That the Central City Economic Development Sales Tax Board shall comply with all requirements of the Sunshine Act.

Section 2. That _____ shall serve as the custodian responsible for the maintenance of the Central City Economic Development Sales Tax Board's records.

Herbert Hardwick
Chairperson

October 18, 2017

Date of Adoption

Missouri Sunshine Law

OPEN MEETINGS AND RECORDS LAW



Missouri Attorney General
JOSH HAWLEY

Introduction

The Sunshine Law brings transparency and fairness to all aspects of government.

The Missouri Sunshine Law was introduced in the General Assembly as Senate Bill 1 in 1973. This was seven years after the Freedom of Information Act was passed in Congress and the same year that the United States Senate Watergate Committee conducted its hearings. With the passage of Senate Bill 1, Missouri became one of the earliest advocates of ensuring that meetings and records would be open to the public throughout all aspects of government.

Missouri's commitment to openness in government is clearly stated in § 610.011, RSMo, of the Sunshine Law: "It is the public policy of this state that meetings, records, votes, actions, and deliberations of public governmental bodies be open to the public unless otherwise provided by law. Sections 610.010 to 610.200 shall be liberally construed and their exceptions strictly construed to promote this public policy."

The law sets out the specific instances when a meeting, record, or vote may be closed, while stressing these exceptions are to be strictly interpreted to promote the public policy of openness.

Public meetings, including meetings conducted by telephone, Internet or other electronic means, are to be held at reasonably convenient times and must be accessible to the public. Meetings should be held in facilities that are large enough to accommodate anticipated attendance by the public and accessible to persons with disabilities.

We are pleased to provide you with this new Sunshine Law booklet containing recent changes to the Missouri statutes, case law and Attorney General Opinions by category, information regarding records requests, and two sections of frequently asked questions.

Sincerely,

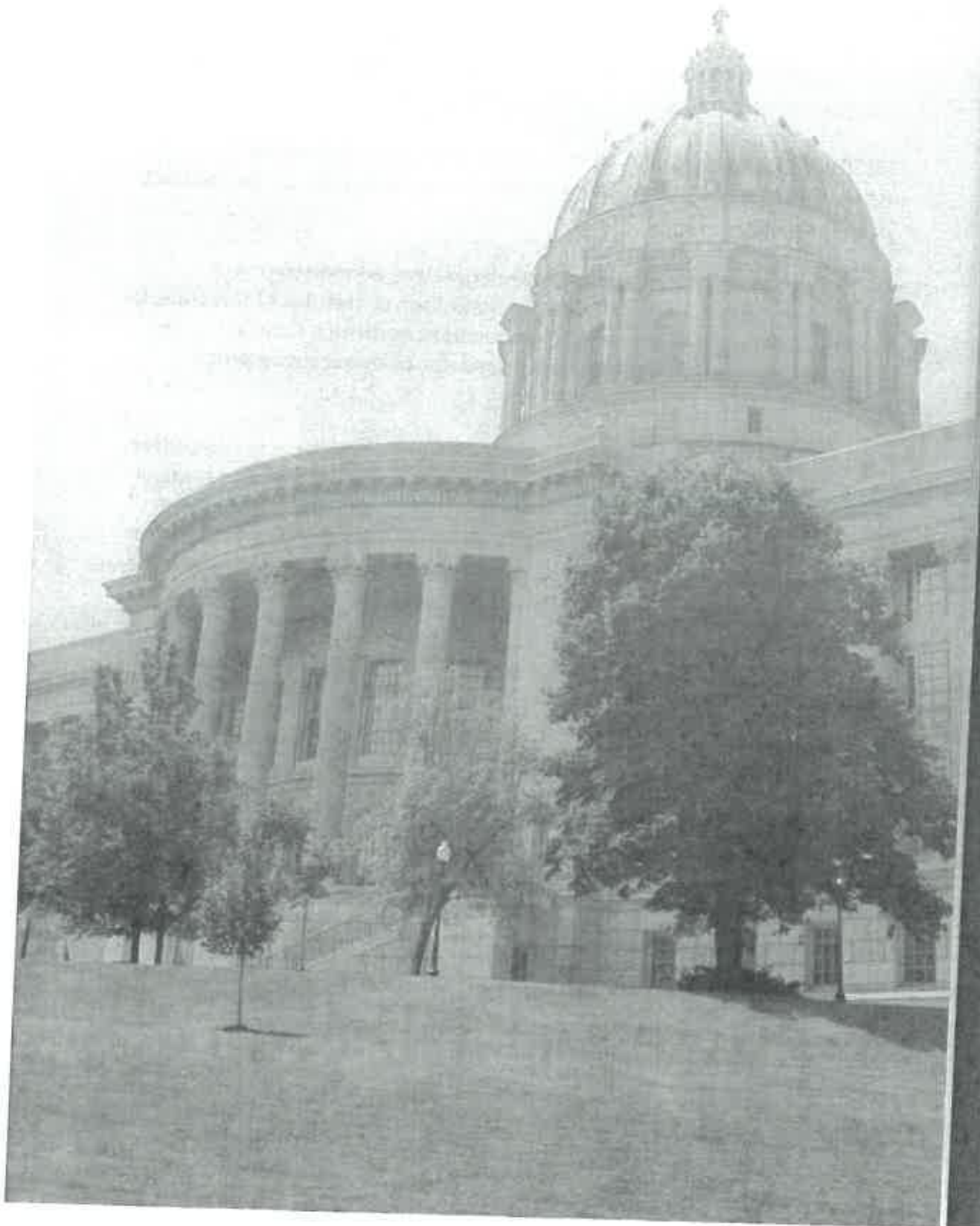


Joshua D. Hawley
Attorney General

Table of Contents

Inside the Sunshine Law

The Sunshine Law – Chapter 610, RSMo	4
Transparency Policy	41
Court Decisions and Attorney General Opinions	42
Public Governmental Bodies and Public Meetings	42
Records Requests	44
Open Records and Meetings	45
Closure Permitted	47
Fees	49
Enforcement and Penalties for Purposeful or Knowing Violations.....	50
Law Enforcement Records.....	51
FAQs – Public Governmental Body	54
FAQs – Law Enforcement	58
Sample Forms	60
Resolution.....	60
Notice of Open Meeting.....	61
Notice of Closed Meeting.....	62
Notice of Open Meeting and Vote to Close Part of Meeting.....	63
Request to have Objection to Closed Meeting Entered into Minutes.....	64
Request Form	65
Records Request Form	66
Freedom of Information Act	67



The Sunshine Law

610.010. Definitions. As used in this chapter, unless the context otherwise indicates, the following terms mean:

(1) **"Closed meeting", "closed record", or "closed vote",** any meeting, record or vote closed to the public;

(2) **"Copying",** if requested by a member of the public, copies provided as detailed in section 610.026, if duplication equipment is available;

(3) **"Public business",** all matters which relate in any way to the performance of the public governmental body's functions or the conduct of its business;

(4) **"Public governmental body",** any legislative, administrative or governmental entity created by the constitution or statutes of this state, by order or ordinance of any political subdivision or district, judicial entities when operating in an administrative capacity, or by executive order, including:

(a) Any body, agency, board, bureau, council, commission, committee, board of regents or board of curators or any other governing body of any institution of higher education, including a community college, which is supported in whole or in part from state funds, including but not limited to the administrative entity known as "The Curators of the University of Missouri" as established by section 172.020;

(b) Any advisory committee or commission appointed by the governor by executive order;

(c) Any department or division of the state, of any political subdivision of the state, of any county or of any municipal government, school district or special purpose district including but not limited to sewer districts, water districts, and other subdistricts of any political subdivision;

(d) Any other legislative or administrative governmental deliberative body under the direction of three or more elected or appointed members having rulemaking or quasi-judicial power;

(e) Any committee appointed by or at the direction of any of the entities and which is authorized to report to any of the above-named

entities, any advisory committee appointed by or at the direction of any of the named entities for the specific purpose of recommending, directly to the public governmental body's governing board or its chief administrative officer, policy or policy revisions or expenditures of public funds including, but not limited to, entities created to advise bi-state taxing districts regarding the expenditure of public funds, or any policy advisory body, policy advisory committee or policy advisory group appointed by a president, chancellor or chief executive officer of any college or university system or individual institution at the direction of the governing body of such institution which is supported in whole or in part with state funds for the specific purpose of recommending directly to the public governmental body's governing board or the president, chancellor or chief executive officer policy, policy revisions or expenditures of public funds provided, however, the staff of the college or university president, chancellor or chief executive officer shall not constitute such a policy advisory committee. The custodian of the records of any public governmental body shall maintain a list of the policy advisory committees described in this subdivision;

(f) Any quasi-public governmental body. The term "**quasi-public governmental body**" means any person, corporation or partnership organized or authorized to do business in this state pursuant to the provisions of chapter 352, 353, or 355, or unincorporated association which either:

a. Has as its primary purpose to enter into contracts with public governmental bodies, or to engage primarily in activities carried out pursuant to an agreement or agreements with public governmental bodies; or

b. Performs a public function as evidenced by a statutorily based capacity to confer or otherwise advance, through approval, recommendation or other means, the allocation or issuance of tax credits, tax abatement, public debt, tax-exempt debt, rights of eminent domain, or the contracting of leaseback agreements on structures whose annualized payments commit public tax revenues; or any association that directly accepts the appropriation of money from a public governmental body, but only to the extent that a meeting, record, or vote relates to such appropriation; and

(g) Any bi-state development agency established pursuant to section 70.370;

(5) **"Public meeting"**, any meeting of a public governmental body subject to sections 610.010 to 610.030 at which any public business is discussed, decided, or public policy formulated, whether such meeting is conducted in person or by means of communication equipment, including, but not limited to, conference call, video conference, internet chat, or internet message board. The term **"public meeting"** shall not include an informal gathering of members of a public governmental body for ministerial or social purposes when there is no intent to avoid the purposes of this chapter, but the term shall include a public vote of all or a majority of the members of a public governmental body, by electronic communication or any other means, conducted in lieu of holding a public meeting with the members of the public governmental body gathered at one location in order to conduct public business;

(6) **"Public record"**, any record, whether written or electronically stored, retained by or of any public governmental body including any report, survey, memorandum, or other document or study prepared for the public governmental body by a consultant or other professional service paid for in whole or in part by public funds, including records created or maintained by private contractors under an agreement with a public governmental body or on behalf of a public governmental body; provided, however, that personally identifiable student records maintained by public educational institutions shall be open for inspection by the parents, guardian or other custodian of students under the age of eighteen years and by the parents, guardian or other custodian and the student if the student is over the age of eighteen years. The term **"public record"** shall not include any internal memorandum or letter received or prepared by or on behalf of a member of a public governmental body consisting of advice, opinions and recommendations in connection with the deliberative decision-making process of said body, unless such records are retained by the public governmental body or presented at a public meeting. Any document or study prepared for a public governmental body by a consultant or other professional service as described in this subdivision shall be retained by the public governmental body in the same manner as any other public record;

(7) **"Public vote"**, any vote, whether conducted in person, by telephone, or by any other electronic means, cast at any public meeting of any public governmental body.

610.011. Liberal construction of law to be public policy.

1. It is the public policy of this state that meetings, records, votes, actions, and deliberations of public governmental bodies be open to the public unless otherwise provided by law. Sections 610.010 to 610.200 shall be liberally

construed and their exceptions strictly construed to promote this public policy.

2. Except as otherwise provided by law, all public meetings of public governmental bodies shall be open to the public as set forth in section 610.020, all public records of public governmental bodies shall be open to the public for inspection and copying as set forth in sections 610.023 to 610.026, and all public votes of public governmental bodies shall be recorded as set forth in section 610.015.

610.015. Votes, how taken.

Except as provided in section 610.021, rules authorized pursuant to article III of the Missouri Constitution and as otherwise provided by law, all votes shall be recorded, and if a roll call is taken, as to attribute each "yea" and "nay" vote, or abstinence if not voting, to the name of the individual member of the public governmental body. Any votes taken during a closed meeting shall be taken by roll call. All public meetings shall be open to the public and public votes and public records shall be open to the public for inspection and duplication. All votes taken by roll call in meetings of a public governmental body consisting of members who are all elected, except for the Missouri general assembly and any committee established by a public governmental body, shall be cast by members of the public governmental body who are physically present and in attendance at the meeting or who are participating via videoconferencing. When it is necessary to take votes by roll call in a meeting of the public governmental body, due to an emergency of the public body, with a quorum of the members of the public body physically present and in attendance and less than a quorum of the members of the public governmental body participating via telephone, facsimile, Internet, or any other voice or electronic means, the nature of the emergency of the public body justifying that departure from the normal requirements shall be stated in the minutes. Where such emergency exists, the votes taken shall be regarded as if all members were physically present and in attendance at the meeting.

610.020. Notice of meetings, when required – recording of meetings to be allowed, guidelines, penalty – accessibility of meetings – minutes of meetings to be kept, content – voting records to be included.

1. All public governmental bodies shall give notice of the time, date, and place of each meeting, and its tentative agenda, in a manner reasonably calculated to advise the public of the matters to be considered, and if the meeting will be conducted by telephone or other electronic means, the notice of the meeting shall identify the mode by which the meeting will be conducted and the designated location where the public may observe and attend the

meeting. If a public body plans to meet by internet chat, internet message board, or other computer link, it shall post a notice of the meeting on its website in addition to its principal office and shall notify the public how to access that meeting. Reasonable notice shall include making available copies of the notice to any representative of the news media who requests notice of meetings of a particular public governmental body concurrent with the notice being made available to the members of the particular governmental body and posting the notice on a bulletin board or other prominent place which is easily accessible to the public and clearly designated for that purpose at the principal office of the body holding the meeting, or if no such office exists, at the building in which the meeting is to be held.

2. Notice conforming with all of the requirements of subsection 1 of this section shall be given at least twenty-four hours, exclusive of weekends and holidays when the facility is closed, prior to the commencement of any meeting of a governmental body unless for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible shall be given. Each meeting shall be held at a place reasonably accessible to the public and of sufficient size to accommodate the anticipated attendance by members of the public, and at a time reasonably convenient to the public, unless for good cause such a place or time is impossible or impractical. Every reasonable effort shall be made to grant special access to the meeting to handicapped or disabled individuals.

3. A public body shall allow for the recording by audiotape, videotape, or other electronic means of any open meeting. A public body may establish guidelines regarding the manner in which such recording is conducted so as to minimize disruption to the meeting. No audio recording of any meeting, record, or vote closed pursuant to the provisions of section 610.021 shall be permitted without permission of the public body; any person who violates this provision shall be guilty of a class C misdemeanor.

4. When it is necessary to hold a meeting on less than twenty-four hours' notice, or at a place that is not reasonably accessible to the public, or at a time that is not reasonably convenient to the public, the nature of the good cause justifying that departure from the normal requirements shall be stated in the minutes.

5. A formally constituted subunit of a parent governmental body may conduct a meeting without notice as required by this section during a lawful meeting of the parent governmental body, a recess in that meeting, or immediately following that meeting, if the meeting of the subunit is publicly announced at the parent meeting and the subject of the meeting reasonably coincides with the subjects discussed or acted upon by the parent governmental body.

6. If another provision of law requires a manner of giving specific notice of a meeting, hearing or an intent to take action by a governmental body, compliance with that section shall constitute compliance with the notice requirements of this section.

7. A journal or minutes of open and closed meetings shall be taken and retained by the public governmental body, including, but not limited to, a record of any votes taken at such meeting. The minutes shall include the date, time, place, members present, members absent and a record of any votes taken. When a roll call vote is taken, the minutes shall attribute each "yea" and "nay" vote or abstinence if not voting to the name of the individual member of the public governmental body.

610.021. Closed meetings and closed records authorized when, exceptions.

Except to the extent disclosure is otherwise required by law, a public governmental body is authorized to close meetings, records and votes, to the extent they relate to the following:

(1) Legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives and its attorneys. However, any minutes, vote or settlement agreement relating to legal actions, causes of action or litigation involving a public governmental body or any agent or entity representing its interests or acting on its behalf or with its authority, including any insurance company acting on behalf of a public government body as its insured, shall be made public upon final disposition of the matter voted upon or upon the signing by the parties of the settlement agreement, unless, prior to final disposition, the settlement agreement is ordered closed by a court after a written finding that the adverse impact to a plaintiff or plaintiffs to the action clearly outweighs the public policy considerations of section 610.011, however, the amount of any moneys paid by, or on behalf of, the public governmental body shall be disclosed; provided, however, in matters involving the exercise of the power of eminent domain, the vote shall be announced or become public immediately following the action on the motion to authorize institution of such a legal action. Legal work product shall be considered a closed record;

(2) Leasing, purchase or sale of real estate by a public governmental body where public knowledge of the transaction might adversely affect the legal consideration therefor. However, any minutes, vote or public record approving a contract relating to the leasing, purchase or sale of real estate by a public governmental body shall be made public upon execution of the lease, purchase or sale of the real estate;

- (3) Hiring, firing, disciplining or promoting of particular employees by a public governmental body when personal information about the employee is discussed or recorded. However, any vote on a final decision, when taken by a public governmental body, to hire, fire, promote or discipline an employee of a public governmental body shall be made available with a record of how each member voted to the public within seventy-two hours of the close of the meeting where such action occurs; provided, however, that any employee so affected shall be entitled to prompt notice of such decision during the seventy-two-hour period before such decision is made available to the public. As used in this subdivision, the term **"personal information"** means information relating to the performance or merit of individual employees;
- (4) The state militia or national guard or any part thereof;
- (5) Nonjudicial mental or physical health proceedings involving identifiable persons, including medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment;
- (6) Scholastic probation, expulsion, or graduation of identifiable individuals, including records of individual test or examination scores; however, personally identifiable student records maintained by public educational institutions shall be open for inspection by the parents, guardian or other custodian of students under the age of eighteen years and by the parents, guardian or other custodian and the student if the student is over the age of eighteen years;
- (7) Testing and examination materials, before the test or examination is given or, if it is to be given again, before so given again;
- (8) Welfare cases of identifiable individuals;
- (9) Preparation, including any discussions or work product, on behalf of a public governmental body or its representatives for negotiations with employee groups;
- (10) Software codes for electronic data processing and documentation thereof;
- (11) Specifications for competitive bidding, until either the specifications are officially approved by the public governmental body or the specifications are published for bid;
- (12) Sealed bids and related documents, until the bids are opened; and

sealed proposals and related documents or any documents related to a negotiated contract until a contract is executed, or all proposals are rejected;

(13) Individually identifiable personnel records, performance ratings or records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries and lengths of service of officers and employees of public agencies once they are employed as such, and the names of private sources donating or contributing money to the salary of a chancellor or president at all public colleges and universities in the state of Missouri and the amount of money contributed by the source;

(14) Records which are protected from disclosure by law;

(15) Meetings and public records relating to scientific and technological innovations in which the owner has a proprietary interest;

(16) Records relating to municipal hotlines established for the reporting of abuse and wrongdoing;

(17) Confidential or privileged communications between a public governmental body and its auditor, including all auditor work product; however, all final audit reports issued by the auditor are to be considered open records pursuant to this chapter;

(18) Operational guidelines, policies and specific response plans developed, adopted, or maintained by any public agency responsible for law enforcement, public safety, first response, or public health for use in responding to or preventing any critical incident which is or appears to be terrorist in nature and which has the potential to endanger individual or public safety or health. Financial records related to the procurement of or expenditures relating to operational guidelines, policies or plans purchased with public funds shall be open. When seeking to close information pursuant to this exception, the public governmental body shall affirmatively state in writing that disclosure would impair the public governmental body's ability to protect the security or safety of persons or real property, and shall in the same writing state that the public interest in nondisclosure outweighs the public interest in disclosure of the records;

(19) Existing or proposed security systems and structural plans of real property owned or leased by a public governmental body, and information that is voluntarily submitted by a nonpublic entity owning or operating an infrastructure to any public governmental body for use by that body to

devise plans for protection of that infrastructure, the public disclosure of which would threaten public safety:

(a) Records related to the procurement of or expenditures relating to security systems purchased with public funds shall be open;

(b) When seeking to close information pursuant to this exception, the public governmental body shall affirmatively state in writing that disclosure would impair the public governmental body's ability to protect the security or safety of persons or real property, and shall in the same writing state that the public interest in nondisclosure outweighs the public interest in disclosure of the records;

(c) Records that are voluntarily submitted by a nonpublic entity shall be reviewed by the receiving agency within ninety days of submission to determine if retention of the document is necessary in furtherance of a state security interest. If retention is not necessary, the documents shall be returned to the nonpublic governmental body or destroyed;

(20) The portion of a record that identifies security systems or access codes or authorization codes for security systems of real property;

(21) Records that identify the configuration of components or the operation of a computer, computer system, computer network, or telecommunications network, and would allow unauthorized access to or unlawful disruption of a computer, computer system, computer network, or telecommunications network of a public governmental body. This exception shall not be used to limit or deny access to otherwise public records in a file, document, data file or database containing public records. Records related to the procurement of or expenditures relating to such computer, computer system, computer network, or telecommunications network, including the amount of moneys paid by, or on behalf of, a public governmental body for such computer, computer system, computer network, or telecommunications network shall be open;

(22) Credit card numbers, personal identification numbers, digital certificates, physical and virtual keys, access codes or authorization codes that are used to protect the security of electronic transactions between a public governmental body and a person or entity doing business with a public governmental body. Nothing in this section shall be deemed to close the record of a person or entity using a credit card held in the name of a public governmental body or any record of a transaction made by a person using a credit card or other method of payment for which reimbursement is made by a public governmental body; and

(23) Records submitted by an individual, corporation, or other business entity to a public institution of higher education in connection with a proposal to license intellectual property or perform sponsored research and which contains sales projections or other business plan information the disclosure of which may endanger the competitiveness of a business.

610.022. Closed meetings, procedure and limitation – public records presumed open unless exempt – objections to closing meetings or records, procedure.

1. Except as set forth in subsection 2 of this section, no meeting or vote may be closed without an affirmative public vote of the majority of a quorum of the public governmental body. The vote of each member of the public governmental body on the question of closing a public meeting or vote and the specific reason for closing that public meeting or vote by reference to a specific section of this chapter shall be announced publicly at an open meeting of the governmental body and entered into the minutes.
2. A public governmental body proposing to hold a closed meeting or vote shall give notice of the time, date and place of such closed meeting or vote and the reason for holding it by reference to the specific exception allowed pursuant to the provisions of section 610.021. Such notice shall comply with the procedures set forth in section 610.020 for notice of a public meeting.
3. Any meeting or vote closed pursuant to section 610.021 shall be closed only to the extent necessary for the specific reason announced to justify the closed meeting or vote. Public governmental bodies shall not discuss any business in a closed meeting, record or vote which does not directly relate to the specific reason announced to justify the closed meeting or vote. Public governmental bodies holding a closed meeting shall close only an existing portion of the meeting facility necessary to house the members of the public governmental body in the closed session, allowing members of the public to remain to attend any subsequent open session held by the public governmental body following the closed session.
4. Nothing in sections 610.010 to 610.028 shall be construed as to require a public governmental body to hold a closed meeting, record or vote to discuss or act upon any matter.
5. Public records shall be presumed to be open unless otherwise exempt pursuant to the provisions of this chapter.
6. In the event any member of a public governmental body makes a motion to close a meeting, or a record, or a vote from the public and any other member believes that such motion, if passed, would cause a meeting, record or vote

to be closed from the public in violation of any provision in this chapter, such latter member shall state his or her objection to the motion at or before the time the vote is taken on the motion. The public governmental body shall enter in the minutes of the public governmental body any objection made pursuant to this subsection. Any member making such an objection shall be allowed to fully participate in any meeting, record or vote that is closed from the public over the member's objection. In the event the objecting member also voted in opposition to the motion to close the meeting, record or vote at issue, the objection and vote of the member as entered in the minutes shall be an absolute defense to any claim filed against the objecting member pursuant to section 610.027.

610.023. Records of governmental bodies to be in care of custodian, duties – records may be copied but not removed, exception, procedure – denial of access, procedure.

1. Each public governmental body is to appoint a custodian who is to be responsible for the maintenance of that body's records. The identity and location of a public governmental body's custodian is to be made available upon request.
2. Each public governmental body shall make available for inspection and copying by the public of that body's public records. No person shall remove original public records from the office of a public governmental body or its custodian without written permission of the designated custodian. No public governmental body shall, after August 28, 1998, grant to any person or entity, whether by contract, license or otherwise, the exclusive right to access and disseminate any public record unless the granting of such right is necessary to facilitate coordination with, or uniformity among, industry regulators having similar authority.
3. Each request for access to a public record shall be acted upon as soon as possible, but in no event later than the end of the third business day following the date the request is received by the custodian of records of a public governmental body. If records are requested in a certain format, the public body shall provide the records in the requested format, if such format is available. If access to the public record is not granted immediately, the custodian shall give a detailed explanation of the cause for further delay and the place and earliest time and date that the record will be available for inspection. This period for document production may exceed three days for reasonable cause.
4. If a request for access is denied, the custodian shall provide, upon request, a written statement of the grounds for such denial. Such statement shall cite the specific provision of law under which access is denied and shall be

furnished to the requester no later than the end of the third business day following the date that the request for the statement is received.

610.024. Public record containing exempt and nonexempt materials, nonexempt to be made available – deleted exempt materials to be explained, exception.

1. If a public record contains material which is not exempt from disclosure as well as material which is exempt from disclosure, the public governmental body shall separate the exempt and nonexempt material and make the nonexempt material available for examination and copying.

2. When designing a public record, a public governmental body shall, to the extent practicable, facilitate a separation of exempt from nonexempt information. If the separation is readily apparent to a person requesting to inspect or receive copies of the form, the public governmental body shall generally describe the material exempted unless that description would reveal the contents of the exempt information and thus defeat the purpose of the exemption.

610.025. Electronic transmission of messages relating to public business, requirements.

Any member of a public governmental body who transmits any message relating to public business by electronic means shall also concurrently transmit that message to either the member's public office computer or the custodian of records in the same format. The provisions of this section shall only apply to messages sent to two or more members of that body so that, when counting the sender, a majority of the body's members are copied. Any such message received by the custodian or at the member's office computer shall be a public record subject to the exceptions of section 610.021.

610.026. Fees for copying public records, limitations – fee money remitted to whom – tax, license or fee as used in Missouri Constitution article X, section 22, not to include copying fees.

1. Except as otherwise provided by law, each public governmental body shall provide access to and, upon request, furnish copies of public records subject to the following:

(1) Fees for copying public records, except those records restricted under section 32.091, shall not exceed ten cents per page for a paper copy not larger than nine by fourteen inches, with the hourly fee for duplicating time not to exceed the average hourly rate of pay for clerical staff of the public governmental body. Research time required for fulfilling records requests may be charged at the actual cost of research time. Based on the scope of

the request, the public governmental body shall produce the copies using employees of the body that result in the lowest amount of charges for search, research, and duplication time. Prior to producing copies of the requested records, the person requesting the records may request the public governmental body to provide an estimate of the cost to the person requesting the records. Documents may be furnished without charge or at a reduced charge when the public governmental body determines that waiver or reduction of the fee is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the public governmental body and is not primarily in the commercial interest of the requester;

(2) Fees for providing access to public records maintained on computer facilities, recording tapes or disks, videotapes or films, pictures, maps, slides, graphics, illustrations or similar audio or visual items or devices, and for paper copies larger than nine by fourteen inches shall include only the cost of copies, staff time, which shall not exceed the average hourly rate of pay for staff of the public governmental body required for making copies and programming, if necessary, and the cost of the disk, tape, or other medium used for the duplication. Fees for maps, blueprints, or plats that require special expertise to duplicate may include the actual rate of compensation for the trained personnel required to duplicate such maps, blueprints, or plats. If programming is required beyond the customary and usual level to comply with a request for records or information, the fees for compliance may include the actual costs of such programming.

2. Payment of such copying fees may be requested prior to the making of copies.

3. Except as otherwise provided by law, each public governmental body of the state shall remit all moneys received by or for it from fees charged pursuant to this section to the director of revenue for deposit to the general revenue fund of the state.

4. Except as otherwise provided by law, each public governmental body of a political subdivision of the state shall remit all moneys received by it or for it from fees charged pursuant to sections 610.010 to 610.028 to the appropriate fiscal officer of such political subdivision for deposit to the governmental body's accounts.

5. The term "tax, license or fees" as used in section 22 of article X of the Constitution of the state of Missouri does not include copying charges and related fees that do not exceed the level necessary to pay or to continue to pay the costs for providing a service, program, or activity which was in

existence on November 4, 1980, or which was approved by a vote of the people subsequent to November 4, 1980.

610.027. Violations – remedies, procedure, penalty, purposeful violations – validity of actions by governing bodies in violation – governmental bodies may seek interpretation of law, attorney general to provide.

1. The remedies provided by this section against public governmental bodies shall be in addition to those provided by any other provision of law. Any aggrieved person, taxpayer to, or citizen of, this state, or the attorney general or prosecuting attorney, may seek judicial enforcement of the requirements of sections 610.010 to 610.026. Suits to enforce sections 610.010 to 610.026 shall be brought in the circuit court for the county in which the public governmental body has its principal place of business. Upon service of a summons, petition, complaint, counterclaim, or cross-claim in a civil action brought to enforce the provisions of sections 610.010 to 610.026, the custodian of the public record that is the subject matter of such civil action shall not transfer custody, alter, destroy, or otherwise dispose of the public record sought to be inspected and examined, notwithstanding the applicability of an exemption pursuant to section 610.021 or the assertion that the requested record is not a public record until the court directs otherwise.
2. Once a party seeking judicial enforcement of sections 610.010 to 610.026 demonstrates to the court that the body in question is subject to the requirements of sections 610.010 to 610.026 and has held a closed meeting, record or vote, the burden of persuasion shall be on the body and its members to demonstrate compliance with the requirements of sections 610.010 to 610.026.
3. Upon a finding by a preponderance of the evidence that a public governmental body or a member of a public governmental body has knowingly violated sections 610.010 to 610.026, the public governmental body or the member shall be subject to a civil penalty in an amount up to one thousand dollars. If the court finds that there is a knowing violation of sections 610.010 to 610.026, the court may order the payment by such body or member of all costs and reasonable attorney fees to any party successfully establishing a violation. The court shall determine the amount of the penalty by taking into account the size of the jurisdiction, the seriousness of the offense, and whether the public governmental body or member of a public governmental body has violated sections 610.010 to 610.026 previously.
4. Upon a finding by a preponderance of the evidence that a public governmental body or a member of a public governmental body has

purposely violated sections 610.010 to 610.026, the public governmental body or the member shall be subject to a civil penalty in an amount up to five thousand dollars. If the court finds that there was a purposeful violation of sections 610.010 to 610.026, then the court shall order the payment by such body or member of all costs and reasonable attorney fees to any party successfully establishing such a violation. The court shall determine the amount of the penalty by taking into account the size of the jurisdiction, the seriousness of the offense, and whether the public governmental body or member of a public governmental body has violated sections 610.010 to 610.026 previously.

5. Upon a finding by a preponderance of the evidence that a public governmental body has violated any provision of sections 610.010 to 610.026, a court shall void any action taken in violation of sections 610.010 to 610.026, if the court finds under the facts of the particular case that the public interest in the enforcement of the policy of sections 610.010 to 610.026 outweighs the public interest in sustaining the validity of the action taken in the closed meeting, record or vote. Suit for enforcement shall be brought within one year from which the violation is ascertainable and in no event shall it be brought later than two years after the violation. This subsection shall not apply to an action taken regarding the issuance of bonds or other evidence of indebtedness of a public governmental body if a public hearing, election or public sale has been held regarding the bonds or evidence of indebtedness.

6. A public governmental body which is in doubt about the legality of closing a particular meeting, record or vote may bring suit at the expense of that public governmental body in the circuit court of the county of the public governmental body's principal place of business to ascertain the propriety of any such action, or seek a formal opinion of the attorney general or an attorney for the governmental body.

610.028. Legal defense of members of governmental bodies, when – written policy on release of information required – persons reporting violations exempt from liability and discipline.

1. Any public governmental body may provide for the legal defense of any member charged with a violation of sections 610.010 to 610.030.

2. Each public governmental body shall provide a reasonable written policy in compliance with sections 610.010 to 610.030, open to public inspection, regarding the release of information on any meeting, record or vote and any member or employee of the public governmental body who complies with the written policy is not guilty of a violation of the provisions of sections 610.010 to 610.030 or subject to civil liability for any act arising out of his adherence to the written policy of the agency.

3. No person who in good faith reports a violation of the provisions of sections 610.010 to 610.030 is civilly liable for making such report, nor, if such person is an officer or employee of a public governmental body, may such person be demoted, fired, suspended, or otherwise disciplined for making such report.

610.029. Governmental agencies to provide information by electronic services, contracts for public records databases, requirements, electronic services defined – division of data processing may be consulted.

1: A public governmental body keeping its records in an electronic format is strongly encouraged to provide access to its public records to members of the public in an electronic format. A public governmental body is strongly encouraged to make information available in usable electronic formats to the greatest extent feasible. A public governmental body shall not enter into a contract for the creation or maintenance of a public records database if that contract impairs the ability of the public to inspect or copy the public records of that agency, including public records that are online or stored in an electronic record-keeping system used by the agency. Such contract shall not allow any impediment that as a practical matter makes it more difficult for the public to inspect or copy the records than to inspect or copy the public governmental body's records. For purposes of this section, a usable electronic format shall allow, at a minimum, viewing and printing of records. However, if the public governmental body keeps a record on a system capable of allowing the copying of electronic documents into other electronic documents, the public governmental body shall provide data to the public in such electronic format, if requested. The activities authorized pursuant to this section shall not take priority over the primary responsibilities of a public governmental body. For purposes of this section the term "electronic services" means online access or access via other electronic means to an electronic file or database. This subsection shall not apply to contracts initially entered into before August 28, 2004.

2. Public governmental bodies shall include in a contract for electronic services provisions that:

(1) Protect the security and integrity of the information system of the public governmental body and of information systems that are shared by public governmental bodies; and

(2) Limit the liability of the public governmental body providing the services.

3. Each public governmental body may consult with the information technology services division of the office of administration to develop the electronic services offered by the public governmental body to the public pursuant to this section.

610.030. Injunctive relief authorized.

The circuit courts of this state shall have the jurisdiction to issue injunctions to enforce the provisions of sections 610.010 to 610.115.

610.032. Executive agency disclosure of closed records, purpose, procedure – executive agency defined.

1. If an executive agency's records are closed by law, it may not disclose any information contained in such closed records in any form that would allow identification of individual persons or entities unless:

(1) Disclosure of such information is made to a person in that person's official capacity representing an executive agency and the disclosure is necessary for the requesting executive agency to perform its constitutional or statutory duties; or

(2) Disclosure is otherwise required by law.

2. Notwithstanding any other provision of law to the contrary, including, but not limited to, section 32.057, RSMo, such closed information may be disclosed pursuant to this section; however, the providing executive agency may request, as a condition of disclosing such information, that the requesting executive agency submit:

(1) The constitutional or statutory duties necessitating the disclosure of such information;

(2) The name and official capacity of the person or persons to whom such information will be disclosed;

(3) An affirmation that such information will be used only in furtherance of such constitutional or statutory duties; and

(4) The date upon which the access is requested to begin, when the request is for continuous access.

3. Any executive agency receiving such a request for closed information shall keep the request on file and shall only release such information to the person or persons listed on such request. If the request is for continuous access to such information, the executive agency shall honor the request for a

period of one year from the beginning date indicated on such request. If the requesting executive agency requests such information for more than one year, the agency shall provide an updated request for closed information to the providing executive agency upon expiration of the initial request.

4. Any person receiving or releasing closed information pursuant to this section shall be subject to any laws, regulations or standards of the providing executive agency regarding the confidentiality or misuse of such information and shall be subject to any penalties provided by such laws, regulations or standards for the violation of the confidentiality or misuse of such information.

5. For the purposes of this section, **"executive agency"** means any administrative governmental entity created by the constitution or statutes of this state under the executive branch, including any department, agency, board, bureau, council, commission, committee, board of regents or board of curators of any institution of higher learning supported in whole or in part by state funds, any subdivision of an executive agency, and any legally designated agent of such entity.

610.035. State entity not to disclose Social Security number, exceptions.

No state entity shall publicly disclose any Social Security number of a living person unless such disclosure is permitted by federal law, federal regulation or state law or unless such disclosure is authorized by the holder of that Social Security number or unless such disclosure is for use in connection with any civil, criminal, administrative or arbitral proceeding in any federal, state or local court or agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation and the execution or enforcement of judgments and orders, or pursuant to an order of a federal, state or local court. Notwithstanding any other provision of law to the contrary, the disclosure of Social Security numbers of deceased persons shall be lawful, provided that the state agency disclosing the information knows of no reason why such disclosure would prove detrimental to the deceased individual's estate or harmful to the deceased individual's living relatives. For the purposes of this section, **"publicly disclose"** shall not include the use of any Social Security number by any state entity in the performance of any statutory or constitutional duty or power or the disclosure of any Social Security number to another state entity, political subdivision, agency of the federal government, agency of another state or any private person or entity acting on behalf of, or in cooperation with, a state entity. Any person or entity receiving a Social Security number from any entity shall be subject to the same confidentiality provisions as the disclosing entity. For purposes of this section, **"state entity"** means any state department, division, agency, bureau,

board, commission, employee or any agent thereof. When responding to any requests for public information pursuant to this chapter, any costs incurred by any state entity complying with the provisions of this section may be charged to the requester of such information.

610.100. Definitions – arrest and incident records available to public—closed records, when--record redacted, when--access to incident reports, record redacted, when--action for disclosure of investigative report authorized, costs--application to open incident and arrest reports, violations, civil penalty--identity of victim of sexual offense--confidentiality of recording.

1. As used in sections 610.100 to 610.150, the following words and phrases shall mean:

(1) **“Arrest”**, an actual restraint of the person of the defendant, or by his or her submission to the custody of the officer, under authority of a warrant or otherwise for a criminal violation which results in the issuance of a summons or the person being booked;

(2) **“Arrest report”**, a record of a law enforcement agency of an arrest and of any detention or confinement incident thereto together with the charge therefor;

(3) **“Inactive”**, an investigation in which no further action will be taken by a law enforcement agency or officer for any of the following reasons:

(a) A decision by the law enforcement agency not to pursue the case;

(b) Expiration of the time to file criminal charges pursuant to the applicable statute of limitations, or ten years after the commission of the offense; whichever date earliest occurs;

(c) Finality of the convictions of all persons convicted on the basis of the information contained in the investigative report, by exhaustion of or expiration of all rights of appeal of such persons;

(4) **“Incident report”**, a record of a law enforcement agency consisting of the date, time, specific location, name of the victim and immediate facts and circumstances surrounding the initial report of a crime or incident, including any logs of reported crimes, accidents and complaints maintained by that agency;

(5) **“Investigative report”**, a record, other than an arrest or incident report, prepared by personnel of a law enforcement agency, inquiring into a crime

or suspected crime, either in response to an incident report or in response to evidence developed by law enforcement officers in the course of their duties;

(6) "Mobile video recorder", any system or device that captures visual signals that is capable of installation and being installed in a vehicle or being worn or carried by personnel of a law enforcement agency and that includes, at minimum, a camera and recording capabilities;

(7) "Mobile video recording", any data captured by a mobile video recorder, including audio, video, and any metadata;

(8) "Nonpublic location", a place where one would have a reasonable expectation of privacy, including, but not limited to a dwelling, school, or medical facility.

2. **(1)** Each law enforcement agency of this state, of any county, and of any municipality shall maintain records of all incidents reported to the agency, investigations and arrests made by such law enforcement agency. All incident reports and arrest reports shall be open records.

(2) Notwithstanding any other provision of law other than the provisions of subsections 4, 5 and 6 of this section or section 320.083, investigative reports of all law enforcement agencies are closed records until the investigation becomes inactive.

(3) If any person is arrested and not charged with an offense against the law within thirty days of the person's arrest, the arrest report shall thereafter be a closed record except that the disposition portion of the record may be accessed and except as provided in section 610.120.

(4) Except as provided in subsections 3 and 5 of this section, a mobile video recording that is recorded in a nonpublic location is authorized to be closed, except that any person who is depicted in the recording or whose voice is in the recording, a legal guardian or parent of such person if he or she is a minor, a family member of such person within the first degree of consanguinity if he or she is deceased or incompetent, an attorney for such person, or insurer of such person, upon written request, may obtain a complete, unaltered, and unedited copy of a recording under and pursuant to this section.

3. Except as provided in subsections 4, 5, 6 and 7 of this section, if any portion of a record or document of a law enforcement officer or agency, other than an arrest report, which would otherwise be open, contains information that

is reasonably likely to pose a clear and present danger to the safety of any victim, witness, undercover officer, or other person; or jeopardize a criminal investigation, including records which would disclose the identity of a source wishing to remain confidential or a suspect not in custody; or which would disclose techniques, procedures or guidelines for law enforcement investigations or prosecutions, that portion of the record shall be closed and shall be redacted from any record made available pursuant to this chapter.

4. Any person, including a legal guardian or a parent of such person if he or she is a minor, family member of such person within the first degree of consanguinity if such person is deceased or incompetent, attorney for a person, or insurer of a person involved in any incident or whose property is involved in an incident, may obtain any records closed pursuant to this section or section 610.150 for purposes of investigation of any civil claim or defense, as provided by this subsection. Any individual, legal guardian or parent of such person if he or she is a minor, his or her family member within the first degree of consanguinity if such individual is deceased or incompetent, his or her attorney or insurer, involved in an incident or whose property is involved in an incident, upon written request, may obtain a complete unaltered and unedited incident report concerning the incident, and may obtain access to other records closed by a law enforcement agency pursuant to this section. Within thirty days of such request, the agency shall provide the requested material or file a motion pursuant to this subsection with the circuit court having jurisdiction over the law enforcement agency stating that the safety of the victim, witness or other individual cannot be reasonably ensured, or that a criminal investigation is likely to be jeopardized. If, based on such motion, the court finds for the law enforcement agency, the court shall either order the record closed or order such portion of the record that should be closed to be redacted from any record made available pursuant to this subsection.

5. (1) Any person may bring an action pursuant to this section in the circuit court having jurisdiction to authorize disclosure of a mobile video recording or the information contained in an investigative report of any law enforcement agency, which would otherwise be closed pursuant to this section. The court may order that all or part of a mobile video recording or the information contained in an investigative report be released to the person bringing the action.

(2) In making the determination as to whether information contained in an investigative report shall be disclosed, the court shall consider whether the benefit to the person bringing the action or to the public outweighs any harm to the public, to the law enforcement agency or any of its officers, or to any person identified in the investigative report in regard to the need for

law enforcement agencies to effectively investigate and prosecute criminal activity.

(3) In making the determination as to whether a mobile video recording shall be disclosed, the court shall consider:

(a) Whether the benefit to the person bringing the action or the benefit to the public outweighs any harm to the public, to the law enforcement agency or any of its officers, or to any person identified in the mobile video recording in regard and with respect to the need for law enforcement agencies to effectively investigate and prosecute criminal activity;

(b) Whether the mobile video recording contains information that is reasonably likely to disclose private matters in which the public has no legitimate concern;

(c) Whether the mobile video recording is reasonably likely to bring shame or humiliation to a person of ordinary sensibilities; and

(d) Whether the mobile video recording was taken in a place where a person recorded or depicted has a reasonable expectation of privacy.

(4) The mobile video recording or investigative report in question may be examined by the court in camera.

(5) If the disclosure is authorized in whole or in part, the court may make any order that justice requires, including one or more of the following:

(a) That the mobile video recording or investigative report may be disclosed only on specified terms and conditions, including a designation of the time or place;

(b) That the mobile video recording or investigative report may be had only by a method of disclosure other than that selected by the party seeking such disclosure and may be disclosed to the person making the request in a different manner or form as requested;

(c) That the scope of the request be limited to certain matters;

(d) That the disclosure occur with no one present except persons designated by the court;

(e) That the mobile video recording or investigative report be redacted

to exclude, for example, personally identifiable features or other sensitive information;

(f) That a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way.

(6) The court may find that the party seeking disclosure of the mobile video recording or the investigative report shall bear the reasonable and necessary costs and attorneys' fees of both parties, unless the court finds that the decision of the law enforcement agency not to open the mobile video recording or investigative report was substantially unjustified under all relevant circumstances, and in that event, the court may assess such reasonable and necessary costs and attorneys' fees to the law enforcement agency.

6. Any person may apply pursuant to this subsection to the circuit court having jurisdiction for an order requiring a law enforcement agency to open incident reports and arrest reports being unlawfully closed pursuant to this section. If the court finds by a preponderance of the evidence that the law enforcement officer or agency has knowingly violated this section, the officer or agency shall be subject to a civil penalty in an amount up to one thousand dollars. If the court finds that there is a knowing violation of this section, the court may order payment by such officer or agency of all costs and attorneys' fees, as provided by section 610.027. If the court finds by a preponderance of the evidence that the law enforcement officer or agency has purposely violated this section, the officer or agency shall be subject to a civil penalty in an amount up to five thousand dollars and the court shall order payment by such officer or agency of all costs and attorney fees, as provided in section 610.027. The court shall determine the amount of the penalty by taking into account the size of the jurisdiction, the seriousness of the offense, and whether the law enforcement officer or agency has violated this section previously.

7. The victim of an offense as provided in chapter 566 may request that his or her identity be kept confidential until a charge relating to such incident is filed.

8. Any person who requests and receives a mobile video recording that was recorded in a nonpublic location under and pursuant to this section is prohibited from displaying or disclosing the mobile video recording, including any description or account of any or all of the mobile video recording, without first providing direct third-party notice to each person not affiliated with a law enforcement agency or each non-law enforcement agency individual whose

image or sound is contained in the recording, and affording, upon receiving such notice, each person appearing and whose image or sound is contained in the mobile video recording no less than ten days to file and serve an action seeking an order from a court of competent jurisdiction to enjoin all or some of the intended display, disclosure, description, or account of the recording. Any person who fails to comply with the provisions of this subsection is subject to damages in a civil action proceeding.

610.103. Criminal background check completed without fee, when.

Notwithstanding any other provision of law to the contrary, whenever a criminal background check is requested in connection with gaining employment, housing or any other services or benefit of any homeless former member of the organized militia or the armed forces of the United States who has been honorably discharged, such background check shall be completed and transmitted to the requesting party without any fee or other compensation for such background check or copy of any relevant public record pertaining to such request. For purposes of this section "homeless" means an involuntary state characterized by a lack of housing or shelter.

610.105. Effect of nolle pros – dismissal – sentence suspended on record – not guilty due to mental disease or defect, effect – official records available to victim in certain cases.

1. If the person arrested is charged but the case is subsequently nolle prossed, dismissed, or the accused is found not guilty or imposition of sentence is suspended in the court in which the action is prosecuted, official records pertaining to the case shall thereafter be closed records when such case is finally terminated except as provided in subsection 2 of this section and section 610.120 and except that the court's judgment or order or the final action taken by the prosecutor in such matters may be accessed. If the accused is found not guilty due to mental disease or defect pursuant to section 552.030, official records pertaining to the case shall thereafter be closed records upon such findings, except that the disposition may be accessed only by law enforcement agencies, child-care agencies, facilities as defined in section 198.006, and in-home services provider agencies as defined in section 660.250, in the manner established by section 610.120.

2. If the person arrested is charged with an offense found in chapter 566, section 568.045, 568.050, 568.060, 568.065, 568.080, 568.090, or 568.175, and an imposition of sentence is suspended in the court in which the action is prosecuted, the official records pertaining to the case shall be made available to the victim for the purpose of using the records in his or her own judicial proceeding, or if the victim is a minor to the victim's parents or guardian, upon request.

610.106. Suspended sentence prior to September 28, 1981, procedure to close records.

Any person as to whom imposition of sentence was suspended prior to September 28, 1981, may make a motion to the court in which the action was prosecuted after his discharge from the court's jurisdiction for closure of official records pertaining to the case. If the prosecuting authority opposes the motion, an informal hearing shall be held in which technical rules of evidence shall not apply. Having regard to the nature and circumstances of the offense and the history and character of the defendant and upon a finding that the ends of justice are so served, the court may order official records pertaining to the case to be closed, except as provided in section 610.120.

610.110. Failure to recite closed record excused – exceptions.

No person as to whom such records have become closed records shall thereafter, under any provision of law, be held to be guilty of perjury or otherwise of giving a false statement by reason of his failure to recite or acknowledge such arrest or trial in response to any inquiry made of him for any purpose, except as provided in section 491.050, RSMo, and section 610.120.

610.115. Penalty.

A person who knowingly violates any provision of section 610.100, 610.105, 610.106, or 610.120 is guilty of a class A misdemeanor.

610.120. Records to be confidential – accessible to whom, purposes.

1. Records required to be closed shall not be destroyed; they shall be inaccessible to the general public and to all persons other than the defendant except as provided in this section and section 43.507. The closed records shall be available to: criminal justice agencies for the administration of criminal justice pursuant to section 43.500, criminal justice employment, screening persons with access to criminal justice facilities, procedures, and sensitive information; to law enforcement agencies for issuance or renewal of a license, permit, certification, or registration of authority from such agency including but not limited to watchmen, security personnel, private investigators, and persons seeking permits to purchase or possess a firearm; those agencies authorized by section 43.543 to submit and when submitting fingerprints to the central repository; the sentencing advisory commission created in section 558.019 for the purpose of studying sentencing practices in accordance with section 43.507; to qualified entities for the purpose of screening providers defined in section 43.540; the department of revenue for driver license administration; the department of public safety for the purposes of

determining eligibility for crime victims' compensation pursuant to sections 595.010 to 595.075, department of health and senior services for the purpose of licensing and regulating facilities and regulating in-home services provider agencies and federal agencies for purposes of criminal justice administration, criminal justice employment, child, elderly, or disabled care, and for such investigative purposes as authorized by law or presidential executive order.

2. These records shall be made available only for the purposes and to the entities listed in this section. A criminal justice agency receiving a request for criminal history information under its control may require positive identification, to include fingerprints of the subject of the record search, prior to releasing closed record information. Dissemination of closed and open records from the Missouri criminal records repository shall be in accordance with section 43.509. All records which are closed records shall be removed from the records of the courts, administrative agencies, and law enforcement agencies which are available to the public and shall be kept in separate records which are to be held confidential and, where possible, pages of the public record shall be retyped or rewritten omitting those portions of the record which deal with the defendant's case. If retyping or rewriting is not feasible because of the permanent nature of the record books, such record entries shall be blacked out and recopied in a confidential book.

610.122. Arrest record expunged, requirements.

1. Notwithstanding other provisions of law to the contrary, any record of arrest recorded pursuant to section 43.503 may be expunged if:

(1) The court determines that the arrest was based on false information and the following conditions exist;

(a) There is no probable cause, at the time of the action to expunge, to believe the individual committed the offense;

(b) No charges will be pursued as a result of the arrest; and

(c) The subject of the arrest did not receive a suspended imposition of sentence for the offense for which the arrest was made or for any offense related to the arrest; or

(2) The court determines the person was arrested for, or was subsequently charged with, a misdemeanor offense of chapter 303 or any moving violation as the term moving violation is defined under section 302.010, except for any intoxication-related traffic offense as intoxication-related traffic offense is defined under section 577.023 and:

(a) Each such offense or violation related to the arrest was subsequently nolle prossed or dismissed, or the accused was found not guilty of each offense or violation; and

(b) The person is not a commercial driver's license holder and was not operating a commercial motor vehicle at the time of the arrest.

2. A record of arrest shall only be eligible for expungement under this section if:

(1) The subject of the arrest has no prior or subsequent misdemeanor or felony convictions; and

(2) No civil action is pending relating to the arrest or the records sought to be expunged.

610.123. Procedure to expunge, supreme court to promulgate rules – similar to small claims.

1. Any person who wishes to have a record of arrest expunged pursuant to section 610.122 may file a verified petition for expungement in the civil division of the circuit court in the county of the arrest as provided in subsection 4 of this section. The petition shall include the following information or shall be dismissed if the information is not given:

(1) The petitioner's:

(a) Full name;

(b) Sex;

(c) Race;

(d) Date of birth;

(e) Driver's license number;

(f) Social Security number; and

(g) Address at the time of the arrest;

(2) The offense charged against the petitioner;

(3) The date the petitioner was arrested;

(4) The name of the county where the petitioner was arrested and if the arrest occurred in a municipality, the name of the municipality;

(5) The name of the agency that arrested the petitioner;

(6) The case number and court of the offense;

(7) Petitioner's fingerprints on a standard fingerprint card at the time of filing a petition to expunge a record that will be forwarded to the central repository for the sole purpose of positively identifying the petitioner.

2. The petition shall name as defendants all law enforcement agencies, courts, prosecuting attorneys, central state depositories of criminal records or others who the petitioner has reason to believe may possess the records subject to expungement. The court's order shall not affect any person or entity not named as a defendant in the action.

3. The court shall set a hearing on the matter no sooner than thirty days from the filing of the petition and shall give reasonable notice of the hearing to each official or agency or other entity named in the petition.

4. If the court finds that the petitioner is entitled to expungement of any record that is the subject of the petition, it shall enter an order directing expungement. Upon granting of the order of expungement, the records and files maintained in any administrative or court proceeding in an associate or circuit division of the circuit court under this section shall be confidential and only available to the parties or by order of the court for good cause shown. A copy of the order shall be provided to each agency identified in the petition pursuant to subsection 2 of this section.

5. The supreme court shall promulgate rules establishing procedures for the handling of cases filed pursuant to the provisions of this section and section 610.122. Such procedures shall be similar to the procedures established in chapter 482 for the handling of small claims.

610.124. Destruction of arrest records – removal from all electronic files – FBI requested to expunge – protest to expungement, procedure.

1. All records ordered to be expunged pursuant to section 610.123 shall be destroyed, except as provided in this section. If destruction of the record is not feasible because of the permanent nature of the record books, such record entries shall be blacked out. Entries of a record ordered expunged pursuant to section 610.123 shall be removed from all electronic files maintained with the state of Missouri. The central repository shall request the Federal Bureau of Investigation expunge the records from its files.

2. Any petitioner, or agency protesting the expungement, may appeal the court's decision in the same manner as provided for other civil actions.

610.125. Failure to comply with expungement order, penalty – knowingly using expunged record for gain, penalty.

1. A person subject to an order of the court in subsection 4 of section 610.123 who knowingly fails to expunge or obliterate, or releases arrest information which has been ordered expunged pursuant to section 610.123 is guilty of a class B misdemeanor.

2. A person subject to an order of the court in subsection 4 of section 610.123 who, knowing the records have been ordered expunged, uses the arrest information for financial gain is guilty of a class E felony.

610.126. Expungement does not deem arrest invalid – department of revenue may retain records necessary for administrative actions on driver's license – power to close or expunge record, limitation.

1. An expungement of an arrest record shall not reflect on the validity of the arrest and shall not be construed to indicate a lack of probable cause for the arrest.

2. Except as provided by sections 610.122 to 610.126, the courts of this state shall have no legal or equitable authority to close or expunge any arrest record.

3. The petitioner shall not bring any action subsequent to the expungement against any person or agency relating to the arrest described in the expunged records.

610.130. Alcohol-related driving offenses, expunged from records, when--procedures, effect--limitations.

1. After a period of not less than ten years, an individual who has pleaded guilty or has been convicted for a first intoxication-related traffic offense or intoxication-related boating offense which is a misdemeanor or a county or city ordinance violation and which is not a conviction for driving a commercial motor vehicle while under the influence of alcohol and who since such date has not been convicted of any intoxication-related traffic offense or intoxication-related boating offense may apply to the court in which he or she pled guilty or was sentenced for an order to expunge from all official records all recordations of his or her arrest, plea, trial or conviction.

2. If the court determines, after hearing, that such person has not been convicted of any subsequent intoxication-related traffic offense or intoxication-related boating offense, has no other subsequent alcohol-related enforcement contacts as defined in section 302.525, and has no other intoxication-related traffic offense or intoxication-related boating offenses or alcohol-related enforcement actions pending at the time of the hearing on the application, the court shall enter an order of expungement.

3. Upon granting of the order of expungement, the records and files maintained in any administrative or court proceeding in an associate or circuit division of the circuit court under this section shall be confidential and only available to the parties or by order of the court for good cause shown. The effect of such order shall be to restore such person to the status he or she

occupied prior to such arrest, plea or conviction and as if such event had never taken place. No person as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction or expungement in response to any inquiry made of him or her for any purpose whatsoever and no such inquiry shall be made for information relating to an expungement under this section. A person shall only be entitled to one expungement pursuant to this section. Nothing contained in this section shall prevent the director from maintaining such records as to ensure that an individual receives only one expungement pursuant to this section for the purpose of informing the proper authorities of the contents of any record maintained pursuant to this section.

4. The provisions of this section shall not apply to any individual who has been issued a commercial driver's license or is required to possess a commercial driver's license issued by this state or any other state.

610.140. Expungement of certain criminal records, petition, contents, procedure.

1. Notwithstanding any other provision of law and subject to the provisions of this section, any person may apply to any court in which such person was found guilty of any of the offenses specified in subsection 2 of this section for an order to expunge recordations of such arrest, plea, trial, or conviction. A person may apply to have one or more offenses expunged so long as such person lists all the offenses he or she is seeking to have expunged in the same petition and so long as all such offenses are eligible under subsection 2 of this section.

2. The following offenses are eligible to be expunged when such offenses occurred within the state of Missouri and were prosecuted under the jurisdiction of a Missouri municipal associate or circuit court:

(1) Any felony or misdemeanor offense of passing a bad check under 570.120, fraudulently stopping payment of an instrument under 570.125, or fraudulent use of a credit device or debit device under section 570.130;

(2) Any misdemeanor offense of sections 569.065, 569.067, 569.090, subdivision (1) of subsection 1 of section 569.120, sections 569.140, 569.145, 572.020, 574.020, or 574.075; or

(3) Any class B or C misdemeanor offense of section 574.010.

3. The petition shall name as defendants all law enforcement agencies, courts, prosecuting or circuit attorneys, central state repositories of criminal records, or others who the petitioner has reason to believe may possess the records subject to expungement for each of the offenses listed in the petition. The court's order of expungement shall not affect any person or entity not named as a defendant in the action.

4. The petition shall be dismissed if it does not include the following information:

(1) The petitioner's:

(a) Full name;

(b) Sex;

(c) Race;

(d) Driver's license number, if applicable; and

(e) Current address;

(2) Each offense charged against the petitioner for which the petitioner is requesting expungement;

(3) The date the petitioner was arrested for each offense;

(4) The name of the county where the petitioner was arrested for each offense and if any of the offenses occurred in a municipality, the name of the municipality for each offense;

(5) The name of the agency that arrested the petitioner for each offense;

(6) The case number and name of the court for each offense; and

(7) Petitioner's fingerprints on a standard fingerprint card at the time of filing a petition for expungement which will be forwarded to the central repository for the sole purpose of positively identifying the petitioner.

5. The court may set a hearing on the matter no sooner than thirty days from the filing of the petition and shall give reasonable notice of the hearing to each entity named in the petition. At the hearing, the court may accept evidence and hear testimony on, and may consider, the following criteria for each of the offenses listed in the petition for expungement:

(1) It has been at least twenty years if the offense is a felony, or at least ten years if the offense is a misdemeanor, municipal offense, or infraction, since the person making the application completed:

(a) Any sentence of imprisonment; or

(b) Any period of probation or parole;

(2) The person has not been found guilty of a misdemeanor or felony, not including violations of the traffic regulations provided under chapters 304 and 307, during the time period specified for the underlying offense in subdivision (1) of this subsection;

(3) The person has paid any amount of restitution ordered by the court;

(4) The circumstances and behavior of the petitioner warrant the expungement; and

(5) The expungement is consistent with the public welfare.

6. If the court determines at the conclusion of the hearing that such person meets all the criteria set forth in subsection 5 of this section for each of the offenses listed in the petition for expungement, the court may enter an order of expungement. A copy of the order shall be provided to each entity named in the petition, and, upon receipt of the order, each entity shall destroy any record in its possession relating to any offense listed in the petition. If destruction of the record is not feasible because of the permanent nature of the record books, such record entries shall be blacked out. Entries of a record ordered expunged shall be removed from all electronic files maintained with the state of Missouri, except for the files of the court. The records and files maintained in any administrative or court proceeding in a municipal, associate, or circuit court for any offense ordered expunged under this section shall be confidential and only available to the parties or by order of the court for good cause shown. The central repository shall request the Federal Bureau of Investigation to expunge the records from its files.

7. The order shall not limit any of the petitioner's rights that were restricted as a collateral consequence of such person's criminal record, and such rights shall be restored upon issuance of the order of expungement. Except as otherwise provided under this section, the effect of such order shall be to restore such person to the status he or she occupied prior to such arrests, pleas, trials, or convictions as if such events had never taken place. No person as to whom such order has been entered shall be held thereafter under any provision of law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrests, pleas, trials, convictions, or expungement in response to an inquiry made of him or her and no such inquiry shall be made for information relating to an expungement, except the petitioner shall disclose the expunged offense to any court when asked or upon being charged with any subsequent offense. The expunged offense may be considered a prior offense in determining a

sentence to be imposed for any subsequent offense that the person is found guilty of committing.

8. Notwithstanding the provisions of subsection 7 of this section to the contrary, a person granted an expungement shall disclose any expunged offense when the disclosure of such information is necessary to complete any application for:

(1) A license, certificate, or permit issued by this state to practice such individual's profession;

(2) Any license issued under chapter 313; or

(3) Paid or unpaid employment with an entity licensed under chapter 313, any state-operated lottery, or any emergency services provider, including any law enforcement agency.

Notwithstanding any provision of law to the contrary, an expunged offense shall not be grounds for automatic disqualification of an applicant, but may be a factor for denying employment, or a professional license, certificate, or permit.

9. If the court determines that such person has not met the criteria for any of the offenses listed in the petition for expungement, the court shall enter an order dismissing the petition. Any person whose petition for expungement has been dismissed by the court for failure to meet the criteria set forth in subsection 5 of this section may not refile another petition until a year has passed since the date of filing for the previous petition.

10. A person may be granted more than one expungement under this section provided that no person shall be granted more than one order of expungement from the same court. Nothing contained in this section shall prevent the court from maintaining records to ensure that an individual has only one petition for expungement granted by such court under this section.

610.150. "911" telephone reports inaccessible, exceptions.

Except as provided by this section, any information acquired by a law enforcement agency or a first responder agency by way of a complaint or report of a crime made by telephone contact using the emergency number, "911", shall be inaccessible to the general public. However, information consisting of the date, time, specific location and immediate facts and circumstances surrounding the initial report of the crime or incident shall be considered to be an incident report and subject to section 610.100. Any closed records pursuant to this section shall be available upon request by law enforcement agencies or the division of workers' compensation or pursuant

to a valid court order authorizing disclosure upon motion and good cause shown.

610.175. Flight log records after flight, open public records for elected members of executive and legislative branches.

Any records or flight logs pertaining to any flight or request for a flight after such flight has occurred by any elected member of either the executive or legislative branch shall be open public records under this chapter, unless otherwise provided by law. The provisions of this section shall only apply to a flight on a state-owned plane.

610.200. Law enforcement agency log or record of suspected crimes, accidents or complaints, available for inspection and copying.

All law enforcement agencies that maintain a daily log or record that lists suspected crimes, accidents, or complaints shall make available the following information for inspection and copying by the public:

- (1) The time, substance, and location of all complaints or requests for assistance received by the agency;
- (2) The time and nature of the agency's response to all complaints or requests for assistance; and
- (3) If the incident involves an alleged crime or infraction:
 - (a) The time, date, and location of occurrence;
 - (b) The name and age of any victim, unless the victim is a victim of a crime under chapter 566;
 - (c) The factual circumstances surrounding the incident; and
 - (d) A general description of any injuries, property or weapons involved.

610.205. Crime scene photographs and video recordings closed records, when--disclosure to next-of-kin or by court order--inapplicability.

1. Crime scene photographs and video recordings, including photographs and video recordings created or produced by a state or local agency or by a perpetrator or suspect at a crime scene, which depict or describe a deceased person in a state of dismemberment, decapitation, or similar mutilation including, without limitation, where the deceased person's genitalia are

exposed, shall be considered closed records and shall not be subject to disclosure under the provisions of this chapter; provided, however, that this section shall not prohibit disclosure of such material to the deceased's next of kin or to an individual who has secured a written release from the next of kin. It shall be the responsibility of the next of kin to show proof of the familial relationship. For purposes of such access, the deceased's next of kin shall be:

(1) The spouse of the deceased if living;

(2) If there is no living spouse of the deceased, an adult child of the deceased; or

(3) If there is no living spouse or adult child, a parent of the deceased.

2. Subject to the provisions of subsection 3 of this section, in the case of closed criminal investigations a circuit court judge may order the disclosure of such photographs or video recordings upon findings in writing that disclosure is in the public interest and outweighs any privacy interest that may be asserted by the deceased person's next of kin. In making such determination, the court shall consider whether such disclosure is necessary for public evaluation of governmental performance, the seriousness of the intrusion into the family's right to privacy, and whether such disclosure is the least intrusive means available considering the availability of similar information in other public records. In any such action, the court shall review the photographs or video recordings in question in camera with the custodian of the crime scene materials present and may condition any disclosure on such condition as the court may deem necessary to accommodate the interests of the parties.

3. Prior to releasing any crime scene material described in subsection 1 of this section, the custodian of such material shall give the deceased person's next of kin at least two weeks' notice. No court shall order a disclosure under subsection 2 of this section which would disregard or shorten the duration of such notice requirement.

4. The provisions of this section shall apply to all undisclosed material which is in the custody of a state or local agency on August 28, 2016, and to any such material which comes into the custody of a state or local agency after such date.

5. The provisions of this section shall not apply to disclosure of crime scene material to counsel representing a convicted defendant in a habeas corpus action, on a motion for new trial, or in a federal habeas corpus action under 28 U.S.C. Section 2254 or 2255 for the purpose of preparing to file or litigating such proceedings. Counsel may disclose such materials to his or her client

and any expert or investigator assisting counsel but shall not otherwise disseminate such materials, except to the extent they may be necessary exhibits in court proceedings. A request under this subsection shall clearly state that such request is being made for the purpose of preparing to file and litigate proceedings enumerated in this subsection.

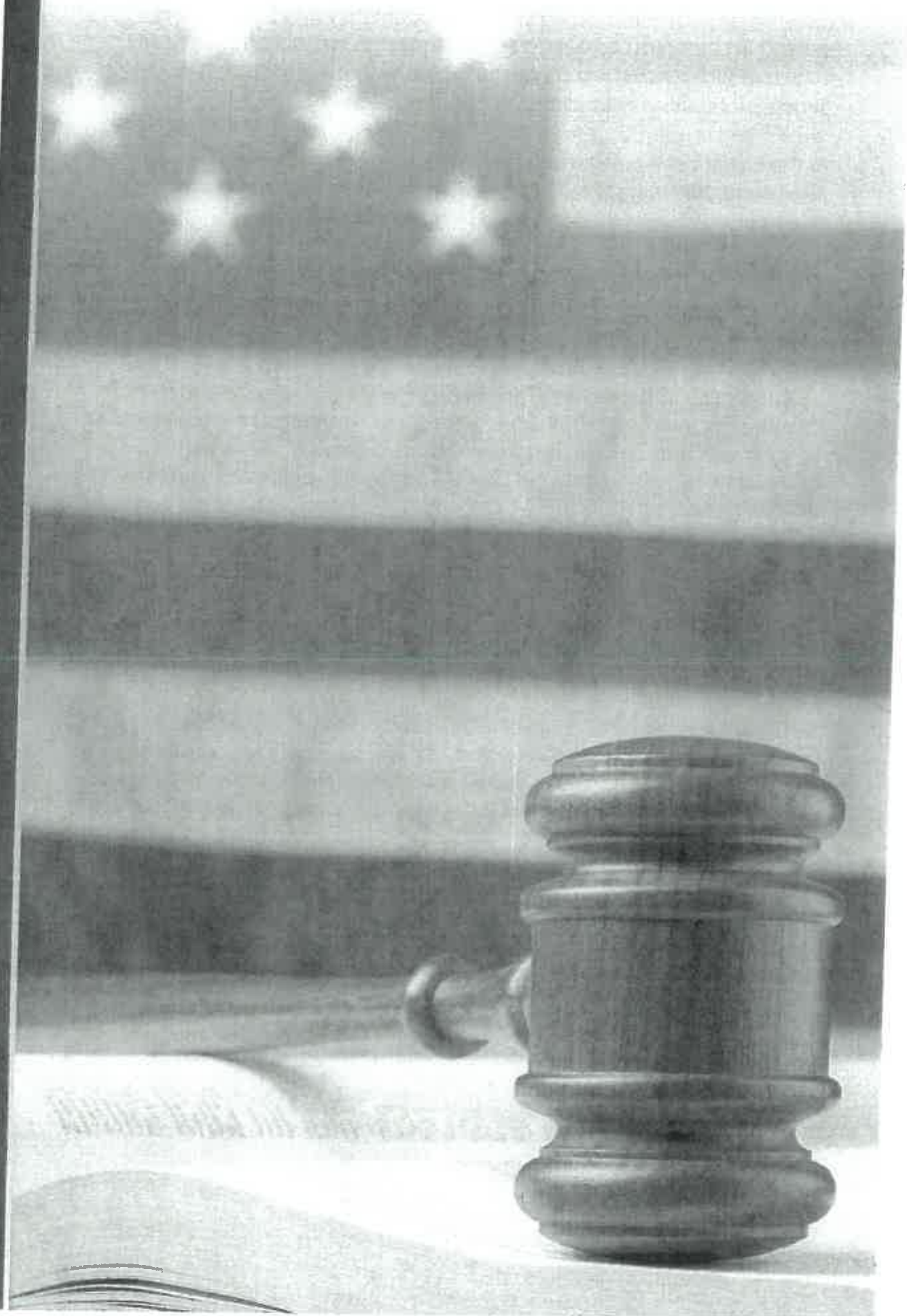
6. The director of the department of public safety shall promulgate rules and regulations governing the viewing of materials described in subsection 1 of this section by bona fide credentialed members of the press.

610.225. Tax credit records and documents deemed closed records, when – request for opening records and documents, requirements, fee authorized.

1. Records and documents relating to tax credits submitted as part of the application for all tax credits to any department of this state, board, or commission authorized to issue or authorize or recommend the authorization of tax credits shall be deemed closed records until such time as the information submitted does not concern a pending application, and except as limited by other provision of law concerning closed records. For the purposes of this subsection, a **“pending application”** shall mean any application for credits that has not yet been authorized. In the case of partial authorization of credits, the completed authorization of a single credit shall be sufficient to constitute full authorization to the extent that the authorized credit or credits relate to the same application as the credits that have not yet been authorized.

2. Upon a request for opening of records and documents relating to all tax credit programs, as defined in section 135.800, submitted in accordance with the provisions of this chapter, except as limited by the provision of subsection 1 of this section, the agency that is the recipient of the open records request shall make information available consistent with the provisions of this chapter. Where a single record or document contains both open and closed records, the agency shall make a redacted version of such record or document available in order to protect the information that would otherwise make the record or document a closed record. Staff time required for such redaction shall constitute an activity for which a fee can be collected pursuant to section 610.026.

3. As used in this section **“closed record”** shall mean closed record as defined in section 610.010.



Transparency Policy

37.070. Transparency policy – public availability of data – broad interpretation of sunshine law requests – breach of the public trust, when.

1. It shall be the policy of each state department to carry out its mission with full transparency to the public. Any data collected in the course of its duties shall be made available to the public in a timely fashion. Data, reports, and other information resulting from any activities conducted by the department in the course of its duties shall be easily accessible by any member of the public.
2. Each department shall broadly interpret any request for information under section 610.023:
 - (1) Even if such request for information does not use the words “sunshine request”, “open records request”, “public records request”, or any such similar wording;
 - (2) Even if the communication is simply an inquiry as to the availability or existence of data or information; and
 - (3) Regardless of the format in which the communication is made, including electronic mail, facsimile, internet, postal mail, in person, telephone, or any other format.
3. Any failure by a department to release information shall, in addition to any other applicable violation of law, be considered a violation of the department’s policy under this section and shall constitute a breach of the public’s trust.
4. This section shall not be construed to limit or exceed the requirements of the provisions in chapter 610, nor shall this section require different treatment of a record considered closed or confidential under section 610.021 than what is required under that section.

Court Decisions and Attorney General Opinions

PUBLIC GOVERNMENTAL BODIES AND PUBLIC MEETINGS

JOHNSON v. STATE, 366 S.W.3d 11 (Mo. 2012)

Reapportionment commission (consisting of six judges from state appellate courts) appointed by Supreme Court pursuant to Art. III, Sec. 2 of the State Constitution, is a "judicial entity." Because the commission was not acting in an administrative capacity, it was not a "public governmental body" under the sunshine law.

STEWART v. WILLIAMS COMMUNICATIONS, INC.,

85 S.W.3d 29 (Mo. App. W.D. 2002)

A private, for-profit corporation that lacks the power to formulate public policy, make rules, or tax and is not one of the specific entities included in the definition in § 610.010(4), RSMo, is not a public governmental body. Thus, the fact that a utility company possessed eminent domain power did not make it a public governmental body.

SNL SECURITIES, L.C. v. NATIONAL ASSOCIATION OF INSURANCE

COMMISSIONERS, 23 S.W.3d 734 (Mo. App. W.D. 2000)

A national association of the chief insurance regulators of all 50 states did not constitute a quasi-public governmental body and therefore was not required to comply with the Sunshine Law.

NORTH KANSAS CITY HOSPITAL BOARD OF TRUSTEES v. ST. LUKE'S

NORTHLAND HOSPITAL, 984 S.W.2d 113 (Mo. App. W.D. 1998)

A nonprofit corporation created to carry out the purposes of a municipal hospital and controlled by the hospital's board of trustees is a quasi-public governmental body and therefore is subject to the Sunshine Law.

DEFINO v. CIVIC CENTER CORP., 780 S.W.2d 665 (Mo. App. E.D. 1989)

No issue of a Sunshine Law violation was presented to the court where less than a quorum of a board of aldermen met with constituents. The court determined the Sunshine Law does not require public notice of every meeting between a constituent and an alderman.

CHARLIER v. CORUM, 774 S.W.2d 518 (Mo. App. W.D. 1989)

A county sheriff is a "public governmental body" within the meaning of § 610.010(4), RSMo, because the office of sheriff is an administrative entity created by state statute.

KANSAS CITY STAR COMPANY v. SHIELDS,
771 S.W.2d 101 (Mo. App. W.D. 1989)

A violation of the Sunshine Law occurred when three members of a four-person budget committee of the city council met with the city budget officer and city manager and discussed the city budget in a luncheon meeting that was not announced as required by § 610.020, RSMo.

OPINION NO. 129-2004

A task force appointed by a school district superintendent for the purpose of making budget proposals to the superintendent is a public governmental body and, therefore, task force meetings are subject to the Sunshine Law.

OPINION NO. 143-2003

A citizen's advisory committee is a public governmental body and records of communications from members of the committee or city staffers to a private consultant are public records. The city is obligated to retrieve public records it has given to a private consultant and make the records accessible to the public.

OPINION NO. 106-2001

The board of jury commissioners is a public governmental body and, when it performs its duties pursuant to Chapter 494, RSMo, it is acting in an administrative role. Because the board of jury commissioners is a public governmental body, it is not exempt from the Sunshine Law, and if it retains the qualified jury list or prospective jury list, the board of jury commissioners is responsible for providing copies, if requested under Chapter 610, RSMo.

OPINION NO. 100-2001

A sheltered workshop established by a nonprofit corporation is a quasi-public governmental body and its financial records are subject to the provisions of Chapter 610, RSMo.

OPINION NO. 255-2000

Provisions of the Sunshine Law apply to a board of visitors created by § 221.320, RSMo.

OPINION NO. 103-88

The Missouri School Boards Association is a "quasi-public governmental body" and subject to the provisions of Chapter 610, RSMo.

OPINION NO. 67-87

The Student Government Association of Southwest Missouri State University is not generally considered a public governmental body subject to the Sunshine Law, although the Sunshine Law may be applicable to the Student Government Association under certain circumstances.

RECORDS REQUESTS

JONES v. JACKSON COUNTY CIRCUIT COURT, 162 S.W.3d 53 (Mo.App. W.D. 2005)

The Sunshine Law does not require a government body to create a new record upon request, but only to provide access to existing records held or maintained by the public governmental body.

ANDERSON v. VILLAGE OF JACKSONVILLE, 103 S.W.3d 190 (Mo. App. W.D. 2003)

Anyone seeking access to public records must communicate a request in language that a reasonably competent custodian of the records would understand. The custodian must be able to identify records with reasonable specificity in order to be able to provide access to them.

OPINION NO. 168-2001

Under § 610.032, RSMo, when an executive agency makes a proper request to another executive agency for information that would otherwise be closed, the second executive agency may provide the information without the need for a court order.

OPINION NO. 235-2000

The board of aldermen may review a city employee's personnel file if it is necessary to care, manage, or control the city. The authority may be delegated through resolution or ordinance to one or more members of the board.

OPINION NO. 153-98

A request for a public record to be provided in a format other than paper, in this case microfilm, must be honored if the public governmental body is able to reproduce the record in that format.

Note: Section 610.023.3, RSMo, has since been amended to require that if records are requested in a certain format, and that format is available, the public body shall provide the records in the requested format.

OPINION NO. 82-97

If a city council member is absent from a meeting that is closed pursuant to § 610.021(3), RSMo, the council member should have access to the minutes from the closed portion.

OPEN RECORDS AND MEETINGS

HEMEYER v. KRCG-TV, 6 S.W.3d 880 (Mo. 1999)

A security videotape of a booking at a county jail is a public record even though the videotape is retained for only days.

Also, a public body that brings an action under § 610.027.5, RSMo, to determine its responsibility under the Sunshine Law is liable for reasonable attorney fees because the body brings suit at its own expense under that section.

SPRADLIN v. CITY OF FULTON, 982 S.W.2d 255 (Mo. 1998)

A city's closed-meeting discussions of a proposed golf course violate the Sunshine Law when the discussions do not involve the city's proposed lease of that golf course pursuant to § 610.021(2), RSMo.

DEATON v. KIDD, 932 S.W.2d 804 (Mo. App. W.D. 1996)

A public governmental body may not restrict public access to records by selling exclusive rights to computer tapes of public records to a bidder who then provides the records at a cost to the public.

PULITZER PUBLISHING CO. v. MISSOURI STATE EMPLOYEES' RETIREMENT SYSTEM (MOSERS), 927 S.W.2d 477 (Mo. App. W.D. 1996)

A public governmental body may not promulgate a rule to close public records where there is no statutory authority for that rule and the records appear to be public pursuant to § 610.021(13), RSMo.

MISSOURI PROTECTION AND ADVOCACY SERVICES v. ALLAN, 787 S.W.2d 291 (Mo. App. W.D. 1990)

A preliminary draft of a report prepared by the U.S. Office of Special Education Programs and in the possession of the Missouri Department of Elementary and Secondary Education is a public record because it is a record retained by a public governmental body. Section 610.010(6), RSMo, does not require a record to be in final form.

LIBRACH v. COOPER, 778 S.W.2d 351 (Mo. App. E.D. 1989)

A severance agreement reached between a school district and superintendent is a public record to be made available for inspection and copying.

OPINION NO. 47-2010

A list of personal care attendants' addresses cannot be closed under § 610.021(13), RSMo, which authorizes closure of "[i]ndividually identifiable personnel records, performance ratings or records pertaining to employees . . . because the names and addresses are not 'records pertaining to employees' that can be closed under § 610.021(13), RSMo, nor 'trade secrets' that can be

closed under § 610.021(14), RSMo, via the "Missouri Uniform Trade Secrets Act," §§ 417.450 to 417.467, RSMo, because the list consists of information made public by statute. Therefore, the Sunshine Law's general presumption of openness applies and the records are open.

OPINION NO. 126-2003

The Sunshine Law requires an election authority to release a record of voter registration information to a newspaper and to provide a copy in CD-ROM format, if available.

OPINION NO. 95-2001

The names, addresses, and water bills of customers of a public water supply district are records subject to disclosure under Chapter 610, RSMo. This does not apply to other information such as Social Security numbers.

OPINION NO. 129-97

The vote of each school board member must be available to the public on votes to hire, fire, discipline, or promote particular employees in a closed meeting pursuant to § 610.021(3), RSMo. But the information considered during the closed meeting and before the actual vote is taken does not have to be disclosed.

OPINION NO. 192-94

Telephone billing records of an individual member of the General Assembly are public records as defined by § 610.010(6), RSMo, to be made available for inspection and copying as provided in §§ 610.023 through 610.026, RSMo.

OPINION NO. 77-92

For purposes of § 610.021(3) and (13), RSMo, an elected mayor and elected city council members are not employees of a city; a city clerk and finance director, who are appointed and are paid, are employees; and members of a citizen board, who are appointed but not paid, are not employees.

OPINION NO. 117-91

Property record cards prepared and retained by a county assessor are public records to be made available for inspection and copying as provided in § 610.023, RSMo.

OPINION NO. 89-89

If a public governmental body retains copies of records of the information set out in § 290.290, RSMo, they are public records and must be made available for inspection and copying pursuant to § 610.023, RSMo.

CLOSURE PERMITTED

AMERICAN FAMILY MUTUAL INSURANCE CO. v. MISSOURI DEPARTMENT OF INSURANCE, 169 S.W.3d 905 (Mo. App. W.D. 2005)

Under § 610.021(14), RSMo, a public body may rely on another statute, in this case a trade secrets provision under §§ 417.450 through 417.467, RSMo, to properly close certain insurance company records.

JONES v. HOUSING AUTHORITY OF KANSAS CITY, 174 S.W.3d 594 (Mo. App. W.D. 2005)

Identifying information of public housing tenants may be closed under the Sunshine Law because those records fall within the exception relating to “welfare cases of identifiable individuals” under § 610.021(8), RSMo.

STATE EX REL. MOORE v. BREWSTER, 116 S.W.3d 630 (Mo. App. E.D. 2003)

An attorney report on alleged misconduct by two school board members is a closed record as legal work product, but must be shared with all board members.

CITY OF ST. LOUIS v. CITY OF BRIDGETON, 806 S.W.2d 717 (Mo. App. E.D. 1991)

A public governmental body purchasing a number of contiguous parcels in a single subdivision is authorized to close records relating to the price paid for one parcel until all the parcels have been acquired.

OPINION NO. 93-2012

A public governmental body is authorized to close personally identifiable personnel records and records pertaining to employees, which would include pension database records. The only exception to this allowance is that records of the name, position, salary, and length of service of public employees may not be closed. Accordingly, information in the records consisting of the names and payments to public employees must be disclosed, but the rest may remain closed.

OPINION NO. 83-2009

Meetings held between a city and a local firefighters union to negotiate a memorandum of understanding pursuant to § 105.520, RSMo, can be closed pursuant to §§ 610.010 through 610.035, RSMo. However, when the written proposals are subject to adoption, modification, or rejection by the governing body, the meeting no longer can be closed.

OPINION NO. 117-2001

A city council with a city manager form of government may go into closed session to discuss personnel matters involving any city employee.

OPINION NO. 97-2000

A public governmental body may decide in closed session pursuant to § 610.021(2), RSMo, to enter into a contract that includes an option to purchase real estate at a particular price if the consideration for that contract could be affected by discussions in open sessions. However, within 72 hours of its decision the public governmental body must make public any minutes, votes, or records relating to its decision.

Note: Section 610.021(2), RSMo, has since been amended to require disclosure of minutes, votes, and records upon execution of the lease, purchase, or sale.

OPINION NO. 68-95

Reference to the number of the relevant subdivision in the § 610.021, RSMo, list of exceptions to openness (for example, § 610.021(1), RSMo) is sufficient to meet the requirement of § 610.022, RSMo, which requires a public body to announce the reason for closing a meeting. A recitation of the words in the relevant subdivision is not required.

OPINION NO. 97-90

Pursuant to § 610.022.2, RSMo, notice of a closed meeting of a public governmental body must include the time, date, and place of the meeting and a reference to the specific statutory exception allowing the meeting to be closed; however, notice of a closed meeting is not required to include a tentative agenda.

OPINION NO. 78-90

The circuit clerk, prosecuting attorney, and circuit judge are not required to release to the media and public the names of members of a grand jury.

OPINION NO. 184-89

Section 610.021(3), RSMo, does not authorize a city's governing body to close a meeting when considering appointments of volunteers to citizen boards.

OPINION NO. 18-81

Once a public governmental body has properly voted to close a meeting, all members of the general public should be removed from the meeting. The governmental body cannot discriminate regarding which members of the public it might wish to remove or allow to stay.

Note: The case of *Smith v. Sheriff*, 982 S.W.2d 775 (Mo. App. E.D. 1998), recognizes that a body may allow certain members of the public into a closed meeting to provide information to the body.

FEES

R.L. POLK & CO. v. MISSOURI DEPARTMENT OF REVENUE,

309 S.W.3d 881 (Mo. App. W.D. 2010)

Department of Revenue established a \$3.82 charge per electronic copy for Missouri vehicle or driver's license records, based on analysis of its costs to maintain and provide electronic copies or records. Court ruled that DOR's uniform per electronic record fee was not authorized by § 610.026.1(2), RSMo, in that it did not include only the costs of copies, staff time, and the cost of the medium used for duplication. The court recognized that such costs do not necessarily vary on a per record basis.

WEBSTER COUNTY ABSTRACT CO., INC. v. ATKISON,

328 S.W.3d 434 (Mo. App. S.D. 2010)

Recorder of Deeds charged a flat fee (per record charge) for all copies of records as authorized by § 59.130, RSMo, which allows up to \$2.00 for the first page and up to \$1.00 for each additional page. Charge bore no relationship to actual costs. Abstract company filed suit claiming charges violated the Sunshine Law, specifically § 610.026, RSMo. The court held the language at the beginning of § 610.026, RSMo, "[e]xcept as otherwise provided by law" permitted the per record charges authorized by § 59.310, RSMo.

ENFORCEMENT AND PENALTIES FOR PURPOSEFUL OR KNOWING VIOLATIONS

R.L. POLK & CO. v. MISSOURI DEPARTMENT OF REVENUE,
309 S.W.3d 881 (Mo. App. W.D. 2010)

Polk sought penalties alleging that Department of Revenue purposefully violated the Sunshine Law. The court held that the mere intent to engage in conduct is not purposeful, but a governmental body must exhibit a conscious design, intent, or plan to violate the law with awareness of the probable consequences. Where DOR attempted in the absence of statutory direction to determine a charge based on its interpretation of costs its conduct was not purposeful.

GREAT RIVERS ENVIRONMENTAL LAW CENTER v. CITY OF ST. PETERS,
290 S.W.3d 732 (Mo. App. E.D. 2009)

After Great Rivers requested records from the City, the City invoked its right pursuant to § 610.027.6, RSMo, to seek an opinion from the Attorney General regarding the legality of closing particular records. While opinion request was pending, Great Rivers filed action alleging the City knowingly and purposefully violated the Sunshine Law by not providing the requested records. Court ruled that there was not sufficient evidence to find a knowing or purposeful violation because the City availed itself of § 610.027.6, RSMo.

CLIENT SERVICES, INC. v. CITY OF ST. CHARLES,
182 S.W.3d 718 (Mo. App. E.D. 2006)

Once a party seeks judicial enforcement of the Sunshine Law, the public governmental body has the burden to demonstrate compliance.

R.E.J., INC. v. CITY OF SIKESTON, 142 S.W.3d 744 (Mo. 2004)

City that violated the notice requirements for meeting in adopting an ordinance may have that ordinance voided even if the city repealed the ordinance after being sued.

CITY OF SPRINGFIELD v. EVENTS PUBLISHING CO.,
951 S.W.2d 366 (Mo. App. S.D. 1997)

If a public governmental body seeks a judgment declaring whether a record is open or closed pursuant to § 610.027.5, RSMo, the body must pay both its own costs of bringing the action and the respondent's attorney fees. *See also, Hemeyer v. KRCCG-TV*, p. 39.

LAW ENFORCEMENT RECORDS

STATE EX REL. PULITZER MISSOURI NEWSPAPERS, INC. v. SEAY,
330 S.W.3d 823 (Mo. App. S.D. 2011)

City's former police chief was given a suspended imposition of sentence and placed on probation. The court ordered the file to be a closed and confidential file. Thereafter, the judge denied a newspaper publisher's request to review file. The court of appeals found the publisher was entitled to review the file because the former chief's case was not finally terminated as of the date of the request. Section 610.105, RSMo, provides records of a suspended imposition of sentence are closed records when the case is finally terminated. On the date the publisher inquired about the file, the case had not been finally terminated because the former chief, who had received a suspended sentence, had not yet completed his probation.

GUYER v. CITY OF KIRKWOOD, 38 S.W.3d 412 (Mo. 2001)

A complaint alleging criminal misconduct by a police officer is an "incident report," and a report concerning investigation into the complaint is an "investigative report" under § 610.100, RSMo. Those records can be closed only on grounds specified in § 610.100, RSMo, for closing law enforcement records. They cannot be closed under § 610.021(3) or (13), RSMo, on grounds that they are personnel records or related to disciplining or firing of an employee.

STATE EX. REL. GOODMAN v. ST. LOUIS BOARD OF POLICE COMMISSIONERS, 181 S.W.3d 156 (Mo. App. E.D. 2005)

An "incident report" as defined in § 610.100, RSMo, only includes those elements described in its definition. Other information, such as phone numbers and addresses, is not subject to disclosure.

SCROGGINS v. MISSOURI DEPARTMENT OF SOCIAL SERVICES,
227 S.W.3d 498 (Mo. App. W.D. 2007)

The director of the Children's Division has discretion to release records and reports that it generates, but investigative reports of law enforcement agencies provided to the Children's Division are closed records under § 610.100.2, RSMo, until the law enforcement investigation becomes inactive.

NEWS-PRESS AND GAZETTE CO. v. CATHCART,
974 S.W.2d 576 (Mo. App. W.D. 1998)

A coroner is a public governmental body under § 610.010, RSMo. But an autopsy report used in an active investigation is an "investigative report" and is closed under § 610.100, RSMo.

OPINION NO. 37-2003

Section 211.321, RSMo, requires that, with certain exceptions, those portions of juvenile court records and law enforcement records identifying juveniles must be kept confidential. So if a law enforcement record involving a juvenile would otherwise be an open record, the law enforcement agency responding to a request for that record should redact identifying information about the juvenile and release the remainder of the record.

OPINION NO. 274-2000

The Sunshine Law requires disclosure of the race of the arrested person and the arrest location if that information is contained in the arrest report and the arrest report is not closed under the Sunshine Law.

OPINION NO. 106-96

Under §§ 79.200 and 610.120, RSMo, a mayor may review an appointed city prosecutor's past prosecution record because the mayor is from a "law enforcement agency" and the review is related to "criminal justice employment."

OPINION NO. 158-95

Under §§ 610.105 and 610.120, RSMo, a city auditor does not have authority to inspect municipal court records of dismissed or nolle prossed cases. Those records may only be inspected by the entities listed in § 610.120, RSMo.

OPINION NO. 200-94

Section 610.100, RSMo, does not contain any provisions expressly referring to Missouri Supreme Court Rules 25.01 et seq., or purporting to amend or annul these rules. Therefore, Rules 25.01 et seq., govern the disclosure of certain information pertaining to a criminal case upon the filing of the indictment or information. To the extent those rules mandate the timing and substance of disclosure of certain information contained within a police investigative report, the Supreme Court Rules of Criminal Procedure must govern. However, upon the completion of the criminal legal action, the status of the police investigative report must be reevaluated.

OPINION NO. 80-93

Records relating to permits to acquire a concealable firearm retained by a county sheriff as required by § 571.090.5, RSMo, are public records open to inspection.

Note: Missouri's concealed-carry law contains its own confidentiality provisions (Section 571.101.9, RSMo).



FAQs - Public Governmental Body

1) How much can a public governmental body charge for records requests? Section 610.026.1(1), RSMo, allows a public governmental body to charge up to 10 cents per page for standard paper copies, the average hourly rate of pay for clerical staff to duplicate documents, and the actual cost of the research time for fulfilling the request. This provision also requires that the public governmental body use the lowest salaried employees capable of searching, researching, and copying the records. Fees for accessing records on other media, or non-standard paper copies, shall reflect actual cost involved. The requestor may wish to ask for a breakdown of the costs associated with the request to determine how the public governmental body arrived at the final charge.

2) Our board goes in to closed session and we don't know what they are going to talk about. Don't they have to let us know why they are closing the meeting? Yes. Section 610.022, RSMo, requires that public governmental bodies give at least 24 hours notice of each proposed closed meeting and the reason for holding it by reference to the specific exception allowed under § 610.021, RSMo. Section 610.022, RSMo, also states that no public governmental body can move from an open meeting into a closed meeting without a roll call vote, and that the vote and the specific section of § 610.021, RSMo, shall be publicly announced and entered in to the minutes.

3) I was told my request would be ready in 2 weeks. Doesn't the Sunshine Law say they have to give me the records in 3 days? Section 610.023.3, RSMo, requires that each request be responded to as soon as possible, but no later than the end of the third business day following the custodian of records' receipt of the request. If access is not granted immediately, the custodian of records is required to explain the reason for the delay and the earliest date and time that the records will be available. Therefore, public governmental bodies are allowed to exceed the three days for production, but they are required to notify you of the delay and explain when they anticipate the records will be ready.

4) Can a public governmental body add items to the agenda after it has been posted? Section 610.020.1, RSMo, requires public governmental bodies to post a notice and a tentative agenda for each meeting, and that the agenda be constructed in a manner reasonably calculated to advise the public of the matters to be considered. Further, § 610.020.2, RSMo, requires that this notice be posted at least 24 hours in

advance of the meeting. However, § 610.020, RSMo, includes an exception that, if for good cause, 24 hours notice is impossible or impractical, the public governmental body shall give as much notice as possible. Also, the nature of the good cause justifying the departure from normal requirements shall be stated in the minutes.

5) Members of the board get together and talk about business outside of meetings. Is that a violation? Under the Sunshine Law, a meeting takes place when a majority or quorum of a public governmental body gathers to discuss or vote on public business (§ 610.010(5), RSMo, and *Colombo v. Buford*, 935 S.W.2d 690 (Mo. App. W.D. 1996)). Therefore, if less than a quorum of the public body meets to discuss public business, it is not a “meeting” as defined under the Sunshine Law. However, the Sunshine Law will apply to meetings of groups with less than a quorum when the entity is deliberately attempting to evade the Sunshine Law. See, *Colombo*, cited above. For example, a public governmental body may not purposely meet in groups with less than a quorum to discuss public business and then ratify those decisions in a subsequent public meeting.

6) Board members e-mail each other about public business – is that considered a meeting? Pursuant to § 610.010(5), RSMo, a public meeting exists when a public body meets and public business is discussed, decided, or public policy is formulated. A single e-mail about an issue would not in and of itself constitute a meeting requiring advance notice. However, by § 610.025, RSMo, any member of a public governmental body who sends an e-mail relating to public business to a majority of the body shall also send a copy to the member’s public office computer or to the custodian of records to be retained as a public record.

7) A requestor refuses to use our request form and sends numerous e-mails with requests for records. Can we require that they fill out our standard request form? Section 610.023.3, RSMo, requires that each request for access to public records is to be responded to as soon as possible; it does not specify a manner in which these requests must be submitted. Therefore, a public governmental body may ask that requestors fill out a form, but it can’t require them to do so.

8) Who can impose penalties for Sunshine Law violations? Only a court can impose penalties if it finds that the Sunshine Law has been violated, and penalties are assessed only if the violation is found to be knowing or purposeful. A court may also void any action that was taken in violation of the law, but it is at the court’s discretion, after considering if it is in the public interest to do so.

9) How may we state our motion when we want to enter into a closed session? One sample motion is: "I move that this meeting be closed, and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, subsection(s) ____, RSMo, for the purpose of (insert the language of the provision(s) cited)."

Please note that the public governmental body should only cite those subsections that are applicable to the material it intends to close (not a standard list of several subsections).

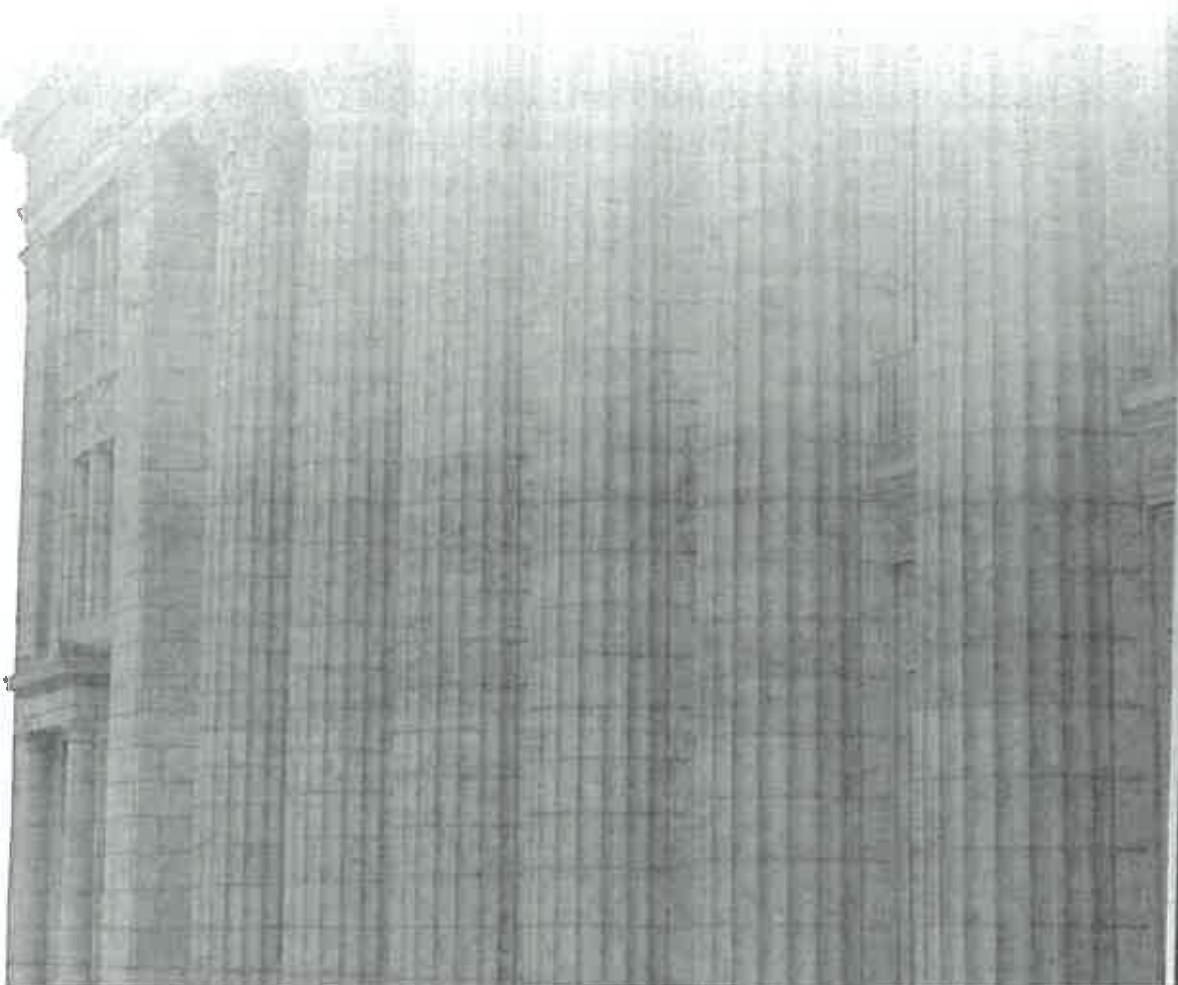
10) Who is subject to the Sunshine Law? To determine if the Sunshine Law applies to a body, refer to the definition of public governmental body in § 610.010, RSMo, p. 4, which includes, but is not limited to:

- public bodies created by state constitution or statutes;
- public bodies created by order or ordinance of any political subdivision or district;
- judicial entities when operating in an administrative capacity;
- public bodies created by executive order, including:
 - ✓ any advisory committee or commission appointed by the governor by executive order;
 - ✓ any department or division of the state;
 - ✓ any department or division of any political subdivision of the state;
 - ✓ any department or division of any county or of any municipal government;
 - ✓ any department or division school district;
 - ✓ any department or division of a special purpose district including but not limited to sewer districts and water districts; and
 - ✓ other subdistricts of any political subdivision;
- any other legislative or administrative governmental deliberative body under the direction of three or more elected or appointed members having rulemaking or quasi-judicial power; and
- certain committees or advisory boards appointed by any of the above entities.

Note: The custodian of records of any public governmental body shall maintain a list of the policy advisory committees described in this section.

Or, a body may qualify as a quasi-governmental body under the Sunshine Law, which is defined in § 610.010(4), RSMo, p. 5, and includes, but is not limited to:

- any person, corporation or partnership organized or authorized to do business in this state by the provisions of chapter 352, 353, or 355, RSMo, or an unincorporated association which either:
 - i. has as its primary purpose to:
 - ✓ enter into contracts with public governmental bodies; or
 - ✓ engage primarily in activities carried out pursuant to an agreement or agreements with public governmental bodies; or
 - ii. performs a statutorily-based public function to:
 - ✓ allocate or issue tax credits, tax abatement, public debt, tax-exempt debt, rights of eminent domain; or
 - ✓ contract leaseback agreements on structures whose annualized payments commit public tax revenues.
- any association that directly accepts the appropriation of money from a public governmental body, but only to the extent that a meeting, record, or vote relates to such appropriation.



FAQs - Law Enforcement

1) Should a juvenile's name be redacted from a police report before being released pursuant to a Sunshine Law request? Section 610.100, RSMo, does not directly address the names of juveniles, but another statute that should be considered is § 211.321.3, RSMo, which states: "Peace officers' records. . . of children . . . shall not be open to inspection or their contents disclosed, except by order of the court."

2) Are criminal records related to a case with a suspended imposition of sentence open or closed records? If an individual receives a suspended imposition of sentence (SIS), the records are open during the period of probation. Once the individual successfully completes the period of probation, the records are then closed. Section 610.105, RSMo.

3) Are motorists involved in automobile accidents entitled to an accident report, even if the case is under review with the prosecutor about pending charges? Generally, a person who was "involved in any incident or whose property is involved in an incident" is entitled to records that might otherwise be closed, including an accident report, "for purposes of investigation of any civil claim or defense." This includes the individual's lawyer, insurance company, or close family member. Section 610.100.4, RSMo. See also Question 4, below.

4) Under what circumstances can a police agency deny access to police reports that might otherwise be open? Sections 610.100.3 and 610.100.4, RSMo, state that the agency has the authority to withhold the disclosure of records that may otherwise be subject to disclosure under two circumstances. First, if the agency has an articulable concern over the safety of a victim, witness, or other person if the record is revealed. Second, disclosure is not necessary if the criminal investigation is likely to be jeopardized. However, the agency may need court approval for withholding this information.

5) Is an employer entitled to closed criminal records of a prospective employee? Under § 610.120, RSMo, a number of employers (including police agencies) are entitled to closed records for employment purposes. This section also states that the defendant can also have access to his or her closed records. Therefore, a prospective employee can allow other prospective employers to access those closed records, if a proper waiver is signed.

6) Can a criminal defendant access police records related to his pending case under the Sunshine Law? No. Attorney General Opinion No. 200-94 states that if criminal charges are filed, disclosures of police reports should occur under the applicable Rules of Criminal Procedure promulgated by the Missouri Supreme Court. As a result, the defendant is generally required to seek his disclosures from the prosecuting attorney and not the law enforcement agencies directly.

7) How detailed must an incident report be in describing the “immediate facts and circumstances” of the crime or incident? An incident report provides the general public with only the most basic information about each incident to which the law enforcement agency is called to respond. In some cases, it may be sufficient to describe the incident as a “vehicle accident” or “domestic assault,” but in other situations more detail may be appropriate.

8) What information is available from a 911 call? The information that is generally available or open regarding a 911 call is the “incident information” – the date, time, specific location, and immediate facts and circumstances of the call. The recording is inaccessible to the public. Section 610.150, RSMo.

9) Are closed records to be destroyed? No, as a general rule, closed records are to be retained but made inaccessible to the public. Section 610.120, RSMo.

Sample Forms

Section 610.028, RSMo, requires a public governmental body to provide a reasonable written policy. Following is a sample resolution.

RESOLUTION

Section 610.023.1, RSMo, provides that a public governmental body is to appoint a custodian to maintain that body's records and the identity and location of the custodian is to be made available upon request.

Section 610.026, RSMo, sets forth that a public governmental body shall provide access to and, upon request, furnish copies of public records.

Section 610.028.2, RSMo, provides that a public governmental body shall provide a reasonable written policy in compliance with §§ 610.010 to 610.030, RSMo, regarding the release of information on any meeting, record, or vote.

IT IS RESOLVED:

1. That **(insert name of custodian)** is appointed custodian of the records of **(insert name of public governmental body)** and that such custodian is located at **(insert specific location, including room, street, address, city, and state)**.

2. That said custodian shall respond to all requests for access to or copies of a public record within the time period provided by statute except in those circumstances authorized by statute.

3. That the fees to be charged for access to or furnishing copies of records shall be as hereinafter provided: **(insert fee schedule. Note: Fees may not exceed 10 cents per page for paper copies 9 by 14 or smaller, plus an hourly fee for duplicating time not to exceed the average hourly rate of pay for clerical staff of the public governmental body. Research time may be billed at actual cost.)**

4. That it is the public policy of **(insert name of public governmental body)** that meetings, records, votes, actions, and deliberations of this body shall be open to the public except as provided by: **(list provisions of § 610.021, RSMo, and other applicable provisions the body wishes to rely on to close records)**, which records shall be closed as allowed by law.

5. That **(insert name of governmental body)** shall comply with §§ 610.010 to 610.225, RSMo, the Sunshine Law, as now existing or hereafter amended.

NOTICE OF OPEN MEETING

This suggested form is intended for use when a public governmental body plans to conduct an open meeting.

(Insert date and time notice was posted)

Notice is hereby given that the **(insert name of public governmental body)** will conduct a meeting at **(insert time)** on **(insert day, month, and year)** at **(insert place where meeting is to be held, or, if the meeting will be conducted by telephone or other electronic means, the location where the public may observe and attend the meeting or directions to access the meeting electronically)**.

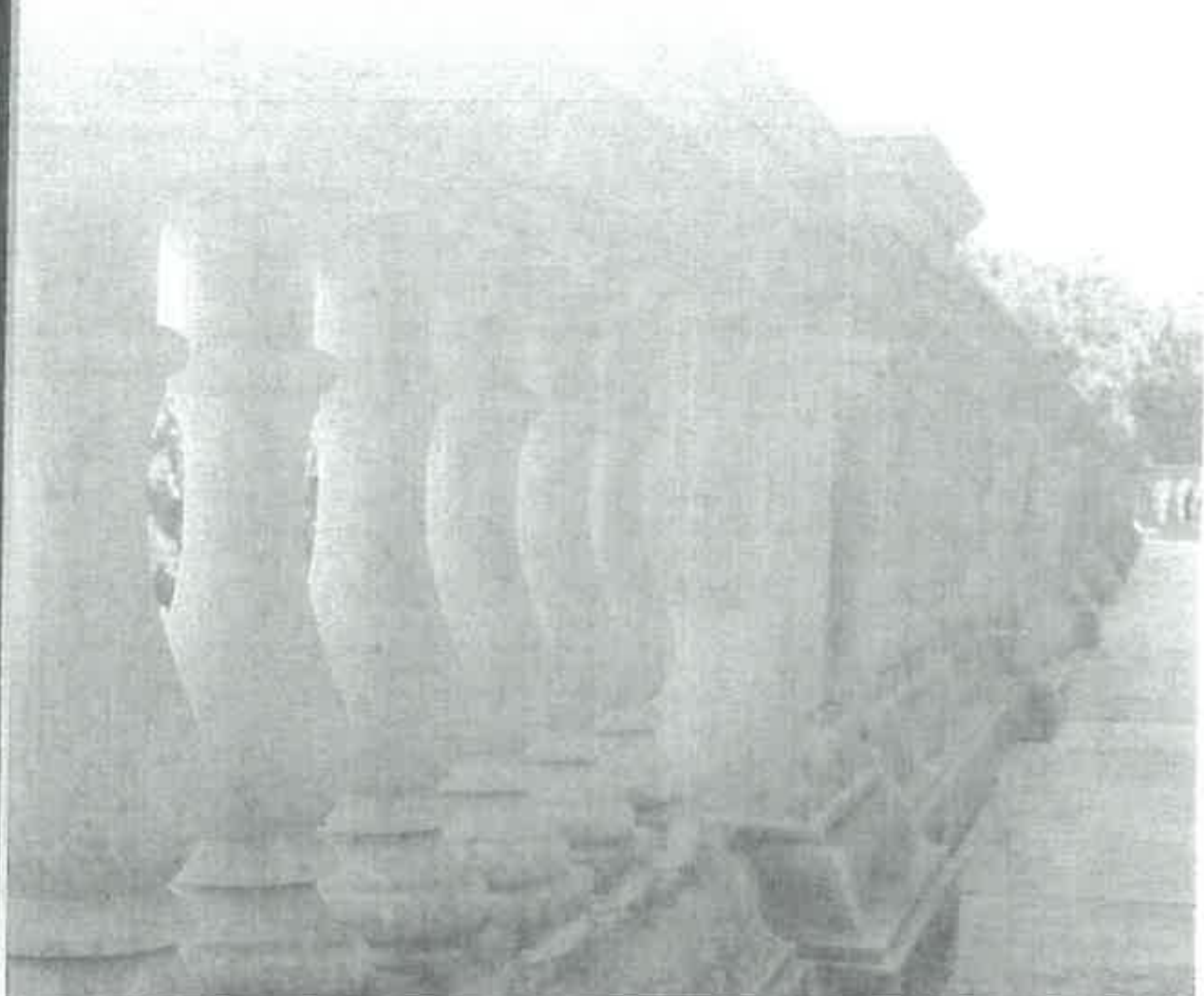
The tentative agenda of this meeting includes (list topics):

NOTICE OF CLOSED MEETING

This suggested form is intended for use when a public governmental body has voted to close a future meeting and otherwise conformed with state law.

(Insert date and time notice was posted)

Notice is hereby given that the
(Insert name of public governmental body) having duly voted to close its meeting, as authorized by **(Insert statutory authority, including specific subsection of Section 610.021, RSMo, to close meeting)** will conduct a closed meeting at **(Insert time)** on **(insert day, month, and year)** at **(insert place where meeting is to be held)**.



NOTICE OF OPEN MEETING AND VOTE TO CLOSE PART OF THE MEETING

This suggested form is intended for use when a public governmental body plans to conduct a meeting that is partially open and partially closed but has not yet publicly voted to close the meeting and has otherwise conformed with state law.

(Insert date and time notice was posted)

Notice is hereby given that the **(insert name of public governmental body)** will conduct a meeting at **(insert time) on (insert time) on (insert day, month, and year) at (insert place where meeting is to be held, or, if the meeting will be conducted by telephone or other electronic means, the location where the public may observe and attend the meeting or directions to access the meeting electronically).**

The tentative agenda of this meeting includes (list topics):

The tentative agenda of this meeting also includes a vote to close part of this meeting pursuant to **(insert statutory authority, including specific subsection of Section 610.021, RSMo, for vote to close meeting).**

REQUEST TO HAVE OBJECTION TO CLOSED MEETING ENTERED INTO MINUTES

This suggested form is intended for use when a member of a public governmental body objects to a motion to close a meeting pursuant to Section 610.022.6, RSMo, and wishes to have the objection entered into the minutes.

Dear (Insert name of custodian or other person responsible for keeping minutes):

Having objected to the motion to close the meeting of (insert name of public governmental body) on (insert day, month, and year) and having made this objection prior to the vote to close the meeting, I wish to have my objection entered into the minutes for that date.

Signature of member _____

Insert name of member _____

REQUEST FORM

Information that can be used to request records from Missouri Public Governmental Bodies

For your convenience, a sample form is included on the next page that can be used to request records under the Missouri Sunshine Law.

On the Web

This sample form is available on the Attorney General's website at ago.mo.gov under the "Sunshine Law" listing.



RECORDS REQUEST FORM

[Insert name and address of officially designated custodian of records]

This is a request for records under the Missouri Sunshine Law, Chapter 610, Revised Statutes of Missouri.

I request that you make available to me the following records: _____
(Describe the records as specifically as possible. Where you are asking for records that cover only a particular period, such as last year or a specific month, identify that time period)

If you know the subject matter of the records, but do not have additional information, use this alternative:

I request that you make available to me all records that relate to _____
(Be as specific as possible; include dates if you can)

If you want and are willing to pay for copies of the records, rather than just being able to see them:

I request that the records responsive to my request be copied and sent to me at the following address: _____

If you believe your request serves the public interest, and is not just for personal or commercial interest, you may ask that the fees be waived:

I request that all fees for locating and copying the records be waived. The information I obtain through this request will be used to _____
(Tell how you will use the information and why that use is in the public interest)

Please let me know in advance of any search or copying if the fees will exceed \$_____ **(Insert amount you are willing to pay without additional information about the documents)**

If portions of the requested records are closed, please segregate the closed portions and provide me with the rest of the records.

(Insert your name, address, phone number, or electronic mail address)

Freedom of Information Act

The federal government's public information law

The federal government also has a sunshine law requiring federal public governmental bodies to open their meetings and records to the public. Called the Freedom of Information Act, a copy of the federal law can be obtained from the University of Missouri-Columbia's Freedom of Information Center. The center is housed in the School of Journalism.

The center's staff will help answer your questions about public access to federal meetings and records.

The center also has sample request forms available that Missourians can use to request information from a federal or state governmental entity. This same information is available on the center's website at www.nfoic.org.

FREEDOM OF INFORMATION CENTER
101 Reynolds Journalism Institute
University of Missouri School of Journalism
Columbia, MO 65211
573-882-4856
Fax: 573-884-6204



Notes



OFFICE OF ATTORNEY GENERAL

JOSH HAWLEY

P.O. Box 899

Jefferson City, MO 65102

573-751-3321

www.ago.mo.gov

Revised March 2017

Ethics Ordinance

City of Kansas City, Missouri
July, 2015

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130249

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130249

Amending Chapter 2, Code of Ordinances, by repealing Division 2, Code of Ethics of Article VII, Officers and Employees, and enacting a new Article XV, Code of Ethics, of Chapter 2, Code of Ordinances to implement a comprehensive code of ethics, and amending section 2-48, Code of Ordinances, entitled "Mayor pro tempore" to establish the duties of the Mayor pro tem, including those relating to the Code of Ethics.

WHEREAS, in May 2011, the Mayor's Transition Team prepared a document entitled "Blueprint for Ethics" which set out certain recommendations for revising the City's Code of Ethics and for establishing a process for further review and analysis of the City's Code of Ethics: and

WHEREAS, one of the recommendations for the further review and analysis of the City's Code of Ethics was the appointment of a special commission ". . . to conduct a comprehensive and substantive review of the City's Ethics policies and practices that would include drafting a new Code of Ethics . . ."; and

WHEREAS, in June 2011, Mayor Sylvester James, Jr. appointed the following seven persons to serve as the members of the Blue Ribbon Commission on Ethics Reform: Andrea Bough, who served as the Chair of the Commission and is an attorney with the Stinson Morrison Hecker law firm, Reverend Brian D. Ellison who then served as pastor of the Parkville Presbyterian Church, Associate Dean Barbara Glesner Fines of the University of Missouri – Kansas City School of Law, Chris Lester who is a business and media executive and journalist, Robert Patrick, who is the president of Local 500, AFSCME, AFL-CIO, Leo Prieto, who is the Community Health Education Outreach Manager at Truman Medical Center and Erik Stafford, who is an author, historian and small business owner; and

WHEREAS, the Blue Ribbon Commission on Ethics Reform first met on June 29, 2011 to begin its study of the City's existing Code of Ethics; and

WHEREAS, as suggested by the Mayor's Transition Team, the Blue Ribbon Commission on Ethics Reform used as their primary references the Model Ethics Code developed by the non-profit organization known as "City Ethics", the code of ethics adopted by New Haven, Connecticut and the City Auditor's February 2011 report entitled: "Performance Audit City's Efforts to Encourage Ethical Conduct" and then expanded those references by reviewing the codes of ethics of several other cities; and

WHEREAS, the Blue Ribbon Commission on Ethics Reform held fifteen meetings, all of which were open to the public; two of which were specifically noticed to receive public comments and one of which was primarily devoted to consideration of a presentation by the City Auditor on his audit work concerning the City's code of ethics and its implementation during which they conducted a comprehensive and substantive review of the City's ethics code, policies and practices; and

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130249

WHEREAS, the amended code of ethics set out below is the product of the Blue Ribbon Commission on Ethics Reform's comprehensive and substantive review of the City's ethics code, policies and practices which they believe strengthens and improves the City's existing code of ethics; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Division 2, Code of Ethics, of Article VII, Officers and Employees, Chapter 2, Code of Ordinances, is repealed.

Section 2. That Chapter 2, Code of Ordinances, is amended by enacting a new Article XV, Code of Ethics to read as follows:

ARTICLE XV

CODE OF ETHICS

DIVISION 1. GENERAL

Sec. 2-2000. Declaration of policy; purpose of code

Sec. 2-2001. Definitions

Sec. 2-2002. Orientation and training

Sec. 2-2003. Use of city property

Sec. 2-2004. Authority to promulgate regulations

DIVISION 2. CONFLICTS OF INTEREST

Sec. 2-2020. Conflict of interest

Sec. 2-2021. Disclosure of conflicts and withdrawal

Sec. 2-2022. Preferential treatment

Sec. 2-2023. Transactions with subordinates

Sec. 2-2024. Conflict of interest annual report

DIVISION 3. GIFTS

Sec. 2-2030. Acceptance of gifts

Sec. 2-2031. Tickets to city facilities

Sec. 2-2032. Reporting

DIVISION 4. EMPLOYMENT

Sec. 2-2040. Honesty in applications for positions

Sec. 2-2041. Patronage

Sec. 2-2042. Canvassing elected officials for appointment

Sec. 2-2043. Nepotism

Sec. 2-2044. Prohibited activities after leaving municipal service

DIVISION 5. CONFIDENTIAL INFORMATION

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130249

- Sec. 2-2050. Confidential information
- Sec. 2-2051. Use of confidential information

DIVISION 6. EXPENSES

- Sec. 2-2060. Business expenses
- Sec. 2-2061. Council expense accounts
- Sec. 2-2062. Travel and other expenses

DIVISION 7. POLITICAL ACTIVITIES

- Sec. 2-2070. Permitted and prohibited political activities of employees
- Sec. 2-2071. Prohibition on required political participation.
- Sec. 2-2072. City communications - prohibitions related to city elections

DIVISION 8. REPORTING

- Sec. 2-2080. Municipal hotline
- Sec. 2-2081. Complicity with or knowledge of others' violations
- Sec. 2-2082. Whistleblower protection

DIVISION 9. ENFORCEMENT

- Sec. 2-2090. Municipal officials and officers ethics commission
- Sec. 2-2091. Prohibition on political contributions and support by commission members
- Sec. 2-2092. Jurisdiction
- Sec. 2-2093. Powers
- Sec. 2-2094. Advisory opinions
- Sec. 2-2095. Investigations
- Sec. 2-2096. Waivers
- Sec. 2-2097. Staff
- Sec. 2-2098. Disposition

DIVISION 10. PENALTY AND OTHER RAMIFICATIONS

- Sec. 2-2100. Penalty
- Sec. 2-2101. Other ramifications
- Sec. 2-2102. Commission findings required – councilmembers and certain others

DIVISION 11. REPORTING

- Sec. 2-2110. City manager reports
- Sec. 2-2111. Annual report

ARTICLE XV

CODE OF ETHICS

DIVISION 1. GENERAL

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130249

Sec. 2-2000. Declaration of policy; purpose of code

Sec. 2-2001. Definitions

Sec. 2-2002. Orientation and training

Sec. 2-2003. Use of city property

Sec. 2-2004. Authority to promulgate regulations

Sec. 2-2000. Declaration of policy; purpose of code

(a) *Policy of the city.* The proper operation of democratic government requires that

- (1) Officials and employees:
 - (A) Are independent, impartial and responsible to the public;
 - (B) Are agents of the public and hold office for the benefit of the public;
 - (C) Do not use public office or employment for personal gain;
 - (D) Are bound to discharge faithfully the duties of their office, regardless of personal considerations, recognizing that the public interest must be their primary concern and shall be loyal to the objectives expressed by the electorate and the programs developed to attain those objectives;
 - (E) Shall uphold the constitution of the United States, constitution of Missouri, and city charter and carry out impartially the laws of the nation, state and municipality, and thus foster respect for all government;
 - (F) Shall not exceed their authority or breach the law or ask others to do so;
 - (G) Shall work in full cooperation with other officials and employees unless prohibited from so doing by law or by officially recognized confidential nature of their work; and
 - (H) As representatives of the public, their conduct in both official and private affairs should be above reproach.
- (2) Decisions and policy are made in the proper channels of the governmental structure; and
- (3) People served by the government have confidence in the integrity of their government.

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130249

Therefore, the provisions and purpose of this code and such rules and regulations as may be established are accepted as and declared to be in the best interests of the city.

(b) *Purpose.* The purpose of this code is to establish minimum ethical standards of conduct for all officials and employees by setting forth those acts or actions that are incompatible with the best interests of the city and by directing disclosure by such officials and employees of private financial or other interests in matters affecting the city. This code is designed to prevent unethical behavior, to avoid even the appearance of impropriety, to provide meaningful redress, and to encourage transparency in government.

(c) *Not exclusive.* The provisions of this code may not be the exclusive source of guidance, rules, regulations, or other requirements addressing ethical behavior of officials and employees. Provisions providing for the ethical conduct of officials and employees will be in addition to the provisions of this code. If there is a conflict between this code and a more specific provision, the two will be interpreted together if possible, but if not the provisions of the more specific provision will govern.

(d) *Cross references – budgetary and financial policies.* There is recognized the additional obligations of persons involved in the city's investment process set out in Sec. 2-1950(d), debt process, Sec. 2-1990(d), and swap transaction process, sec. 2-1990(n)(4).

Sec. 2-2001. Definitions

As used in this code, these terms shall have the following meanings unless it is apparent from the context that a different meaning is intended:

(a) *Board* means any appointive board or commission or other appointive body or authority of the city established by charter, ordinance, resolution or act of the mayor.

(b) *Commission* means the municipal officials and officers ethics commission, unless the context dictates otherwise.

(c) *Contract* means any arrangement or agreement pursuant to which any material, service or other thing of value is to be furnished to the city for valuable consideration to be paid by the city or is to be sold or transferred by the city.

(d) *Councilmember* means any member of the city council, including the mayor.

(e) *Domestic partner* is an adult, unrelated by blood, with whom an unmarried or separated official or employee has an exclusive committed relationship, maintains a mutual residence, and shares basic living expenses. To be a domestic partner within this code, registration with the city clerk of a domestic partnership is not required.

(f) *Elected official* means the mayor or any member of the city council.

(g) *Financial benefit* includes any money, service, license, permit, contract, authorization, loan, discount, travel, entertainment, hospitality, gratuity, or any promise

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130249

of any of these, or anything else of value. This term does not include campaign contributions authorized by law.

(h) *Household* includes anyone whose primary residence is in the official or employee's home.

(i) *Immediate family member* means a spouse or unemancipated child, or a domestic partner and the domestic partner's unemancipated child.

(j) *Interest* means a pecuniary, property, or commercial interest, or any other interest the primary significance of which has been, will be, or might be the realization of economic gain or the avoidance of economic loss to an elected official, board member, his or her relative, or his or her designee whether direct or indirect; provided, however, that "interest" shall not include any matter involving the common public good or necessity, or any matter in which a similar benefit is conferred to all persons or property similarly situated; and further, that ownership individually or in a fiduciary capacity of any securities, or of any beneficial interest in securities, of a corporation shall not be deemed to create an "interest" in the corporation unless the aggregate amount of such securities, or interest in such securities, amount to five percent (5%) or more of any class of the securities of the corporation then outstanding or constitutes a controlling interest in the corporation.

(k) *Official or employee* means the mayor and the mayor's assistants; a member of the city council and a member's assistants; a member of any city board, commission, authority, task force, committee or other organized group of people called to serve the city; a member of any other board, commission or other organized group of people appointed to that group to serve as a representative of the city; the city manager and all assistant city managers; department directors, including the city clerk and city auditor, and their deputies; contract employees; and all other employees of the city. Official or employee shall also include all volunteers unless the office or department in which the volunteer service is offered has adopted a special code of ethics applicable to volunteers. Official or employee shall also include the judges of the municipal court insofar as this code is not inconsistent with the Code of Judicial Conduct promulgated by the Missouri Supreme Court.

(l) *Personal benefit* includes benefits other than those that are directly financially advantageous. These include financial benefits to relatives, business associates, and others, as well as non-financial benefits to these people and to oneself, including such things as reputation and the success of one's career.

(m) *Relative* means any of the following persons related to the employee or the employee's spouse or domestic partner:

- (1) Children, parents;
- (2) Grandchildren, grandparents, brothers and sisters;
- (3) Great-grandchildren, great-grandparents, nephews and nieces, uncles and aunts; or

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130249

- (4) Great-great-grandchildren, great-great-grandparents, grand nephews and grand nieces, first cousins, great uncles and great aunts.

(n) *Subordinate* means another official or employee over whose activities an official or employee has direction, supervision or control.

Sec. 2-2002. Orientation and training

(a) *Orientation and training for mayor and council members.*

(1) *Ethics training prerequisite to assuming office.*

(A) Elected officials. A person shall receive orientation training on ethics after election as either a council member or mayor and before the city clerk administers the oath of office to that council member or mayor.

(B) City manager to provide training. The city manager shall provide this training. The city manager may delegate specific matters for presentation to the mayor-elect and council members-elect.

(C) Training topics. Training provided by the city manager shall include, at a minimum, the following:

- (i) Rights and responsibilities of the mayor and council members;
- (ii) Legislative procedures;
- (iii) Code of ethics;
- (iv) Conflicts of interest;
- (v) Financial disclosure requirements;
- (vi) Public records; and
- (vii) Campaign finance.

Applicable local, state and federal laws shall be included within the training.

- (2) *Structure of government.* The city manager shall furnish each council member-elect and the mayor-elect with a written synopsis of the functions and responsibilities of each city department and a synopsis of the city financing sources, including definitions of terms. Council members-elect and the mayor-elect will have the opportunity to meet with each department head and receive orientation on that department's functions and responsibilities and to meet with the director of human resources and receive orientation on salary and benefits.

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130249

- (3) *Legislative process.* The city attorney shall provide an explanation of the procedures required by law to enact the types of legislation that may be considered by the council.
 - (4) *Periodic training.* Updates on orientation training topics shall be furnished to council members and the mayor by the city manager every six months.
- (b) *Orientation and training for other officials and all employees.*
- (1) *Ethics handbook.* The city manager shall furnish each other official and all employees with a current copy of a handbook that contains this code of ethics, as well as Missouri statutes and city administrative regulations relating to ethical conduct, within the first month after their service or employment has begun.
 - (2) *Periodic training.* The city manager shall periodically furnish ethical training updates to all other officials and all employees.

Sec. 2-2003. Use of city property

(a) *Prohibition.* No official or employee shall request or permit the use of city-owned or city-leased vehicles, equipment, materials or property for personal convenience or profit.

(b) *Exceptions.*

- (1) *Availability to the public.* This prohibition shall not apply when such services are available to the public generally, and the official or employee complies with all rules and requirements applicable to the public.
- (2) *Provided by city to public official.* This prohibition shall not apply if such services are provided as municipal policy for the use of such official or employee.

Sec. 2-2004. Authority to promulgate regulations

(a) *Mayor.* The mayor is authorized to establish rules or regulations in addition to or stricter than the rules found in this code of ethics. Such rules may apply to any or all employees of the mayor's staff.

(b) *Mayor pro tem.* The mayor pro tem is authorized to establish rules or regulations in addition to or stricter than the rules found in this code of ethics. Such rules may apply to any or all employees of the staff of the city council.

(c) *City manager.* The city manager is authorized to establish rules or regulations in addition to or stricter than the rules found in this code of ethics. Such rules may apply to any or all employees under the ultimate supervision of the city manager.

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130249

(d) *Board of parks and recreation commissioners.* The board of parks and recreation commissioners is authorized to establish rules or regulations in addition to or stricter than the rules found in this code of ethics. Such rules may apply to the commissioners and any or all employees under the ultimate supervision of the board of parks and recreation commissioners.

(e) *Department directors.* All department directors are authorized to establish rules or regulations in addition to or stricter than the rules found in this code of ethics. The director of parks and recreation is also authorized to establish rules or regulations in addition to or stricter than those promulgated by the board of parks and recreation commissioners. Such rules may apply to any or all employees under the ultimate supervision of the director.

(f) *Boards and commissions.* All boards and commissions acting by a majority of the board or commission are authorized to establish rules or regulations in addition to or stricter than the rules found in this code of ethics for their members.

DIVISION 2. CONFLICTS OF INTEREST

Sec. 2-2020. Conflict of interest

Sec. 2-2021. Disclosure of conflicts and withdrawal

Sec. 2-2022. Preferential Treatment

Sec. 2-2023. Transactions with Subordinates

Sec. 2-2024. Conflict of interest annual report

Sec. 2-2020. Conflict of interest

(a) *Benefits received.* An official or employee may not use his or her official position or office, or take or fail to take any action, or influence others to take or fail to take any action, in a manner which he or she knows, or has reason to believe, may result in a personal or financial benefit, not shared with a substantial segment of the city's population, for any of the following persons or entities:

- (1) Himself or herself;
- (2) A member of his or her household, his or her spouse or domestic partner, or the employer or business of any of these people;
- (3) A sibling or step-sibling, step-child, parent or step-parent, niece or nephew, uncle or aunt, or grandparent or grandchild of either himself or herself, or of his or her spouse or domestic partner, or the employer or business of any of these people; or
- (4) A nongovernmental civic group, union, social, charitable, or religious organization of which he or she (or his or her spouse or domestic partner) is an officer, director, or board member, or which he or she holds any other position on the organization's administrative or governing body.

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130249

(b) *Service on boards or commissions.* An official or employee serving as a member of a board, commission, or any other entity as a representative of the city shall not have a conflict of interest when the business of that entity is before the city. An official or employee serving as a member of a board, commission, or any other entity not as a representative of the city but as a private citizen, even if the board or entity seeks out an official or employee because of their position with the city, shall have a conflict of interest when matters touching upon the business of the board, commission, or any other entity comes before the city.

(c) *Labor contracts.* A Council member has a conflict of interest with respect to any labor contract to which he or she, or a member of his or her household, may be a party.

(d) *Private financial transactions.* An official or employee must disclose at the beginning of any transaction, project, or discussions about any transaction or project, if a known person with a substantial financial interest is a customer or client to which an official or employee has supplied goods or services through one or more private transactions during the previous twenty-four months, having, in the aggregate, a value of or greater than \$1,000. Such circumstances must be disclosed to the City Clerk. These records shall be available to the internal auditor, ethics compliance officer and director of the department to which assigned, the mayor if assigned to the mayor's office, the mayor pro tem if assigned to a council member or the council office or the city manager if assigned to the city manager's office or not otherwise assigned. Such disclosure will include a statement that in the opinion of the official or employee no conflict of interest exists and the reason why that is stated.

Sec. 2-2021. Disclosure of conflicts and withdrawal

(a) *Withdrawal required.* An official or employee must refrain from acting on or discussing, formally or informally, a matter before the city, if acting on the matter, or failing to act on the matter, may personally or financially benefit any of the persons or entities listed in section 2-2020. Such official or employee should join the public if the withdrawal occurs at an open meeting, or leave the room if it is a closed meeting.

(b) *Involuntary withdrawal.* If a board or agency member is requested to withdraw from participation in a matter, for the reason that he or she has a conflict of interest, by

- (1) Another member,
- (2) A party to the current matter, or
- (3) Anyone else who may be affected by a decision relating to this matter, the member must decide whether to withdraw. If the member decides not to withdraw, the member must announce in an open session of a meeting of the board or agency why the member will not withdraw from participating in the matter.

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130249

(c) *Reasons for voluntary withdrawal.* Withdrawal at a meeting requires the public announcement, on the record, of the reason for withdrawal.

(d) *No appearance of impropriety.* By disclosure and recusal pursuant to this section, there is no appearance of impropriety.

Sec. 2-2022. Preferential Treatment

No official or employee shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.

Sec. 2-2023. Transactions with Subordinates

(a) *Prohibition.* No official or employee may engage in a financial transaction exceeding \$50.00, including the giving of loans or receiving of loans or monetary contributions, including charitable contributions, with a subordinate or person or business over which, in the official or employee's official duties and responsibilities, he or she exercises supervisory responsibility.

(b) *Exception.* This prohibition shall not apply when the financial transaction is in the normal course of a regular commercial business or occupation.

Sec. 2-2024. Conflict of interest annual report

(a) *Disclosure to Missouri Ethics Commission.* Councilmembers, the city manager and assistants, the city clerk, the city auditor, the internal auditor, the general services department's manager of procurement, the city attorney, and the directors of all departments of the city, shall file with the city clerk and the state ethics commission the long form of the state ethics commission's personal financial disclosure statement completed in conformance with state law. All other city officials, including members of boards and commissions, shall file with the city clerk the approved personal financial disclosure statement.

(b) *Disclosure to the Supreme Court.* Judges of the city municipal division of the circuit court shall file disclosure reports required of judges by the supreme court of the state, and will not be required to duplicate filings with the state ethics commission or the city clerk.

(c) *Disclosure to the city clerk.* Members of all boards, commissions and other entities of the city or who receive substantial funding from the city or which make recommendations on the expenditure of public funds shall file an annual conflict of interest disclosure report on the form provided by the city clerk by May 1 of each year, which shall include at least the following:

- (1) Employers who are contractors and/or suppliers of the city, and from whom the person reporting received income in excess of \$10,000.00 during the period covered by the report;

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130249

- (2) Sole proprietorships who are contractors and/or suppliers of the city, owned by reporting person;
- (3) Each general partnership and joint venture who are contractors and/or suppliers of the city, and in which the reporting person is a partner or participant;
- (4) Each closely-held corporation or limited partnership who are contractors and/or suppliers of the city, and in which the reporting person owns ten percent or more of any class of the outstanding stock or units;
- (5) Each publicly-traded corporation or limited partnership who are contractors and/or suppliers of the city, and which is listed on a regulated stock exchange or automated quotation system in which the reporting person owns two percent or more of any class of outstanding stock, units or other equity interests;
- (6) Miscellaneous income in excess of \$10,000.00 from any single sources who are contractors and/or suppliers to the city, and not otherwise included in the report;
- (7) Each corporation who is a contractor and/or supplier to the city, and in which the reporting person served as a director, officer or receivers;
- (8) Each not-for-profit corporation, association, organization or union in which the reporting person served as an officer, director, employee or trustee, except church, fraternal or service organizations where no pay was received;
- (9) Spouse and children who were employed by the city, and what department they worked for; and
- (10) Real property owned and/or managed in whole or in part by member, spouse or dependent children within corporate boundaries.

(d) *Boards, commissions and other entities defined.* Members of boards, commissions and other entities receiving substantial funding by the city or which make recommendations on the expenditure of public funds required to file annual financial disclosure reports with the city clerk shall include those persons who are members of the following boards and commissions:

- (1) American Jazz Museum;
- (2) Board of Trustees of City Trusts - all members file
- (3) Board of Zoning Adjustment;
- (4) Brownfields Commission;

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130249

- (5) Building and Fire Code Board of Appeals;
- (6) Employees Retirement System Board of Trustees;
- (7) Citizen Advisory Committee, Housing;
- (8) City Market Oversight Committee;
- (9) City Plan Commission;
- (10) Construction Workforce Board;
- (11) Convention and Visitors Association of Greater Kansas City;
- (12) Convention Hotel Steering Committee;
- (13) Convention Management Advisory Authority;
- (14) Downtown Economic Stimulus Authority;
- (15) Economic Development Corporation;
- (16) Enhanced Enterprise Zone Board;
- (17) Environmental Management Commission;
- (18) Fairness in Construction Board;
- (19) Fairness in City Contracts Board;
- (20) Firefighters Pension System Board of Trustees;
- (21) Global Commission, Kansas City;
- (22) Healthcare System Board of Trustees
- (23) Historic Preservation Commission;
- (24) Housing Authority - only mayoral appointees;
- (25) Human Resources Board;
- (26) Human Rights Commission;
- (27) Impact Fee Advisory Committees;
- (28) Industrial Development Authority;
- (29) Jackson County Board of Equalization - only mayoral appointees;
- (30) Kansas City Area Transportation Authority - only mayoral appointees;

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130249

- (31) Kansas City, Municipal Assistance Corporation;
- (32) Kansas City Museum Advisory Board;
- (33) Kansas City Parking and Transportation Commission;
- (34) KCTGA Comprehensive HIV Care Plan;
- (35) Land Bank of Kansas City, Missouri – only mayoral appointees;
- (36) Land Clearance for Redevelopment Authority;
- (37) Land Trust of Jackson County - only mayoral appointee;
- (38) Liquor Control Board of Review;
- (39) Metropolitan Ambulance Services Trust;
- (40) Municipal Art Commission;
- (41) Municipal Judicial Nominating Commission;
- (42) Municipal Officials Ethics Commission - all members file;
- (43) Neighborhood Tourist Development Fund Committee;
- (44) Parks and Recreation Board of Commissioners;
- (45) Planned Industrial Expansion Authority;
- (46) Police Retirement Board - only mayoral appointees;
- (47) Port Authority;
- (48) Property Maintenance Appeals Board;
- (49) Public Improvement Advisory Committee;
- (50) Special review boards and business districts, including Main Street Special Review Board, the Independence Avenue Special Design Review Districts, the Union Hill Special Business District, and the Westport Special Business District;
- (51) Tax Increment Financing Commission; and
- (52) Technical Review Committee

(e) *Time for filing.* The first disclosure report required of persons shall be filed with the city clerk prior to assuming a position on the designated entity. An annual revised disclosure report shall be filed by May 1 of each calendar year.

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130249

(f) *Failure to file.*

- (1) *Boards and commissions.* Any member of a city board, commission or other entity who is appointed by the mayor or one or more members of the city council who fails to report by June 1 of each year shall be deemed to have resigned membership, and this resignation shall be deemed accepted as of June 1 of the respective year. Any entity listed in subsection (d) with a member not appointed by the mayor or one or more members of the city council failing to file the required disclosure report shall be subject to termination or suspension of any funding or other assistance provided by the city until all required disclosures are made.
- (2) *Employees and other officials.* The internal auditor shall verify filing of reports with the city clerk for all city employees and other appointed officials. Failure of the city manager and assistants, the city clerk, the city auditor, the internal auditor, the general services department's manager of procurement, the city attorney, and the directors of all departments of the city shall be reported to the city manager and to the mayor by June 1 of the respective year. Failure of the internal auditor to file the appropriate report shall be reported by the city clerk to the city manager and the mayor.

(g) *City clerk's responsibility.* The city clerk will distribute to members of the entities named in subsection (d) and to the city manager and assistants, the city clerk, the city auditor, the internal auditor, the commissioner of purchases and supplies, the city attorney, and the directors of all departments of the city by February 1 of each year forms on which they may make the required filing. The failure of a person required to file a disclosure report to receive a form shall not be an excuse for the failure to file the required report. The city clerk will have available copies of appropriate forms in the office of the city clerk for persons to obtain.

DIVISION 3. GIFTS

Sec. 2-2030. Acceptance of gifts

Sec. 2-2031. Tickets to city facilities

Sec. 2-2032. Reporting

Sec. 2-2030. Acceptance of gifts

(a) *Definitions.* Unless the context specifically indicates otherwise, the terms as used in this division are defined as follows:

- (1) Gift means anything of more than \$200.00 of value accepted by a person whether tangible or intangible, which would reasonably be considered of worth, use or service to the person to whom it is conferred. The term gift includes but is not limited to:

(A) Money;

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130249

- (B) Products or merchandise;
- (C) Works of art or collectibles;
- (D) Stocks, bonds, notes or options;
- (E) An interest in real property;
- (F) Contracts or a promise of a future interest in a contract;
- (G) An interest or a promise of a future interest in a business;
- (H) Meals, beverages or lodging;
- (I) Transportation for noncity purposes;
- (J) Services, including loaned employees;
- (K) Loans, loan guarantees, cosigning;
- (L) Forgiveness of a debt;
- (M) Discounts or rebates not extended to the public generally;
- (N) Preferential treatment;
- (O) Tickets or admissions to events, concerts or performances, other than those provided by the City;
- (P) Free or discounted use of office facilities;
- (Q) Loan of office equipment;
- (R) Promise or offer of present or future employment;
- (S) Use of autos, boats, apartments or other recreational or lodging facilities;
- (T) Intangible rights such as cause of action;
- (U) Licenses, patents, copyrights or any interest therein;
- (V) Fees and honorariums for an appearance or speech, or for participation at any event, in his or her official capacity; excluding payment or reimbursement for reasonable and necessary expenses related to any such activity; and
- (W) Any other items tangible or intangible having economic value.

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130249

- (2) A gift for purposes of this section does not include:
- (A) Anything of value accepted by a person whether tangible or intangible from any immediate family member, parent, emancipated child, grandparent, grandchild, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, great uncle, great aunt, first cousin, second cousin, or the spouse or domestic partner of any of these persons, including the transfer or co-mingling of assets or liabilities between spouses or domestic partners;
 - (B) Campaign contributions which are reported under RSMo. Ch. 130, as amended;
 - (C) Contributions to any cause or organization, including a bona fide charity, made in response to a direct solicitation from an officer or employee;
 - (D) Wages or salary paid for work or services from outside employment; or
 - (E) Compensation paid for goods or services to self-employed individuals; or
 - (F) Travel, expenses, registrations, and similar items provided to a person by a city department or affiliated entity such as the Economic Development Corporation or any of its agencies, Port Authority, or as a result of their membership in a not-for-profit organization existing to assist local governments, such as the National League of Cities, National Black Caucus, Missouri Municipal League, and the Mid-America Regional Council, and other similar groups.
- (3) Gifts totaling in value more than \$200.00 accepted by the official or employee or a member of his or her immediate family at the same or substantially the same time shall be deemed a single gift to the officer or employee.
- (4) Substantial interest in legislative or administrative action means persons or organizations which:
- (A) Are regulated by the city;
 - (B) Provide goods and services to the city for compensation or profit;
 - (C) Seek employment with the city or any agency thereof;

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130249

- (D) Will be directly and substantially affected, either financially or personally, by any contemplated legislative or administrative action; or
- (E) Have or seek contracts for goods or services with any department or agency of the city.

(b) *Acceptance of gifts.*

- (1) No official or employee or an immediate family member of an official or employee shall knowingly accept any gift having a value in excess of \$200.00 but less than, or equal to, \$1,000.00 or the maximum allowed by Missouri law, whichever is less, from any person or business entity having a substantial interest in any legislative or administrative action of the city, unless such gift is disclosed as required in this article.
- (2) No official or employee or an immediate family member of an official or employee shall knowingly accept any gift having a value in excess of \$1,000.00 or the maximum allowed by Missouri law, whichever is less, from any person or business entity having a substantial interest in any legislative or administrative action of the city.
- (3) No official or employee or an immediate family member of an official or employee shall knowingly accept gifts during a calendar year having a cumulative value in excess of \$1,000.00 or the maximum allowed by Missouri law, whichever is less, from any person or business entity having a substantial interest in any legislative or administrative action of the city.

(c) *Disclosure.* Any official or employee who accepts a gift having a value of more than \$200.00 but less than, or equal to, \$1,000 or the maximum allowed by Missouri law, whichever is less shall disclose the acceptance of that gift within fifteen (15) days of the end of the quarter in which the gift was accepted on a disclosure form provided by the City Clerk by filing the original disclosure form with the City Clerk. These records shall be available to the internal auditor, ethics compliance officer and director of the department to which assigned, the mayor if assigned to the mayor's office, the mayor pro tem if a council member or the council office or the city manager if assigned to the city manager's office or not otherwise assigned. Failure to file this gift disclosure form when required to do so shall be reported by the internal auditor to the City Clerk, ethics compliance officer and director of the department to which assigned, the mayor if assigned to the mayor's office, the mayor pro tem if a council member or assigned to the council office or to the city manager if assigned to the city manager's office or not otherwise assigned.

Sec. 2-2031. Tickets to city facilities

- (a) *Tickets to city facilities not considered gifts.*

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130249

- (1) *Tickets to officials.* When tickets are provided by the city to the mayor and members of the city council or to the city manager to events held in city facilities, such as the Sprint Center, Kemper Arena, Municipal Auditorium, Music Hall, Hale Arena, as a result of contract negotiations for use of the city's facilities, those tickets, by whomever used, are not considered gifts.
- (2) *Tickets to certain employees.* If an employee of the city receives tickets for attendance at events in city facilities to carry out that employee's duties, those tickets shall not be considered gifts.
- (b) *Tickets from promoters or other sources.* When tickets are provided to the mayor or members of the city council or city manager by any person other than the city, the tickets are gifts.

Sec. 2-2032. Reporting

(a) *Quarterly reporting.* Any official or employee and any official or employee upon behalf of any immediate family member receiving a gift as defined in this article shall report such gift within fifteen (15) days of the end of the quarter in which the gift was accepted on forms as provided by the city clerk to the city clerk according to the following schedule.

	<u>Quarter</u>	<u>Filing Deadline</u>
1	January, February, March	April 15
2	April, May, June	July 15
3	July, August, September	October 15
4	October, November, December	January 15

For purposes of this quarterly reporting requirement, members of boards and commissions required by section 2-2024 to file an annual report shall not be required to file a quarterly report.

- (b) *Public records.* All such reports shall be considered public records.
- (c) *Other reporting requirements.* This reporting requirement shall be in addition to any other gift reporting requirements imposed by other ordinances or by state or federal law.

DIVISION 4. EMPLOYMENT

- Sec. 2-2040. Honesty in applications for positions
- Sec. 2-2041. Patronage
- Sec. 2-2042. Canvassing elected officials for appointment
- Sec. 2-2043. Nepotism
- Sec. 2-2044. Prohibited activities after leaving municipal service

Sec. 2-2040. Honesty in applications for positions

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130249

No person seeking to become an official, employee, or contractor may make any false statement, submit any false document, or knowingly withhold information about wrongdoing in connection with employment by or service for the city.

Sec. 2-2041. Patronage

No official or employee may promise an appointment or the use of his or her influence to obtain an appointment to any position as a reward for any political activity or contribution.

Sec. 2-2042. Canvassing elected officials for appointment

(a) *Prohibited.* Canvassing of the mayor or members of the city council, directly or indirectly by an applicant, in order to obtain preferential consideration in connection with any appointment to the municipal service is prohibited.

(b) *Disqualification for appointment.* Canvassing of the mayor or members of the city council, directly or indirectly by an applicant, in order to obtain preferential consideration in connection with any appointment to the municipal service shall disqualify the candidate for appointment.

(c) *Canvassing defined.* Canvassing means soliciting the assistance of, intercession by, or any other interference in the hiring process, directly or indirectly by an applicant, and actual assistance of, intercession by, or any other interference in the hiring process by the mayor or other members of the city council.

(d) *Exception.* When the position is filled by appointment by the mayor or city council, such canvassing is not prohibited or a disqualification for appointment.

Sec. 2-2043. Nepotism

(a) *Hiring, appointing, accepting volunteers.* No official or employee may appoint or hire, accept as a volunteer or participate in influencing the appointment or hiring of any disqualified person for any type of employment, including by contract, with the city.

(b) *Disqualified person.* The following persons are disqualified persons for purposes of subsection (a):

- (1) *Spouse or domestic partner.* Spouse or domestic partner of the official or employee;
- (2) *Relatives.* The following persons related to the employee or the employee's spouse or domestic partner:
 - (A) Children, parents;
 - (B) Grandchildren, grandparents, brothers and sisters;

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130249

- (C) Great-grandchildren, great-grandparents, nephews and nieces, uncles and aunts; and
 - (D) Great-great-grandchildren, great-great-grandparents, grand nephews and grand nieces, first cousins, great uncles and great aunts.
- (3) *Members of household.* Members of the employee's household.
- (c) ***Supervision***
- (1) *Prohibited.* No official or employee may supervise or be in a direct line of supervision over his or her spouse or domestic partner, child or step-child, sibling or step-sibling, parent, or member of his or her household.
 - (2) *Waiver.* If an official or employee comes into a direct line of supervision over one of these persons, he or she will have six months to come into compliance or to obtain a waiver from the municipal officials and officers ethics commission.

Sec. 2-2044. Prohibited activities after leaving municipal service

(a) *Prohibition.* No elected official, or employee of the city serving in an executive or administrative capacity, shall perform any service for any monetary or in-kind compensation during one year after termination of his or her office or employment by which performance he or she attempts to directly influence a decision of the city or any department or agency thereof.

(b) *Exception.* This section shall not be construed to prevent any person from:

- (1) Performing such service and receiving compensation therefor in an adversary proceeding having a record or right of appeal or in the preparation or filing of any public document; or
- (2) Submitting any bid and participating in any contract from a successful bid with the city for any goods or services which will be awarded to the lowest and best bidder.

DIVISION 5. CONFIDENTIAL INFORMATION

Sec. 2-2050. Confidential information

Sec. 2-2051. Use of confidential information

Sec. 2-2050. Confidential information

(a) *Defined.* Confidential information means information which is not available to the general public under applicable laws, ordinances, and regulations and which is obtained by reason of the official's or employee's position with the city. In the event the information is in written form, the document containing said information shall be marked

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130249

"confidential." If the document is not so marked, the information contained therein shall not be deemed to be confidential information under this code. Any person creating or disseminating a document containing information of a confidential nature shall be responsible for marking the document as "confidential."

(b) *Disclosure of confidential information.*

- (1) *Prohibited.* No official or employee shall disclose any confidential information to persons not entitled to such.
- (2) *Exceptions.* This prohibition shall not apply to a disclosure if:
 - (A) The city council authorizes such disclosure upon an affirmative vote by a majority of the members of the city council present at a properly convened and authorized meeting of the council; or
 - (B) Pursuant to a final order of a court; or
 - (C) Pursuant to a final judicial determination that information conveyed or received at any closed session was improperly classified as confidential.

(c) *Closed sessions.*

- (1) *Disclosure prohibited.* No person attending a properly convened and authorized closed session shall disclose to any person not in attendance at the closed session or not entitled to be in attendance at the closed session any confidential information which was made or received by any person present in the closed session and which is related to the topic(s) for which any such properly convened and properly authorized closed session was called.
- (2) *Disclosure permitted.*
 - (A) *Authorization of the body.* During the course of any closed session of the city council or any other body, any member may ask the other members who are present for the closed session to allow disclosure of any confidential information from the closed session, but such disclosure shall be authorized only upon an affirmative vote by a majority of those attending the closed session and entitled to vote.
 - (B) *Post-meeting information.* The provisions of this section shall not prohibit the disclosure of any information made or received after the matters discussed at the closed session and to which the information pertains have been lawfully released to the public.
 - (C) *Application to persons entitled to attend a closed session.* The provisions of this section shall apply to any person entitled to be in

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130249

attendance at a closed session and who is later informed of the discussion at the closed session.

- (D) ***Persons subject to the closed session discussion.*** The provisions of this section shall not apply to any person whose claim, employment or contract is the subject of the closed session.

(d) ***Conflicts of interest.*** No person may attend a closed session at which a topic is to be discussed which creates a conflict of interest for that person, nor shall that person be entitled to the minutes of the closed session.

(e) ***Policy.*** It is the expectation of the city council that councilmembers and other persons authorized to be present at properly convened and authorized closed sessions will refrain from disclosure of confidential information received at such closed sessions, subject to the right of any person attending such closed session to obtain a judicial determination of the matter.

(f) ***Missouri Sunshine Law.*** Failure to mark any document "confidential" shall have no effect on the status of the document as an open or closed record under the Missouri Sunshine Law, Chapter 610, Revised Statutes of Missouri.

Sec. 2-2051. Use of confidential information

It shall be unlawful for any employee or former employee knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.

DIVISION 6. EXPENSES

Sec. 2-2060. Business expenses

Sec. 2-2061. Council expense accounts

Sec. 2-2062. Travel and other expenses

Sec. 2-2060. Business expenses

(a) ***Public purpose required.*** The use of public funds is limited to public purposes, which may include appropriate business expenses. Business expenses will differ from department to department and from official to official.

(b) ***Recognized public purposes.*** Participation in entities that encourage business and tourism in the city, encourage professional development of elected officials, officers and employees, and encourage other public activities are appropriate public expenses. Expenditures for city purposes shall be deemed to include registration fees, transportation costs, lodging expenses and meals, employee expense, office supplies and equipment, books and subscriptions, and similar operational expenses. Listing examples of public purposes does not limit the possible activities that may constitute a public purpose.

(c) ***Recognized non-public purposes.*** Participation in political affairs or self-promotion by any elected official or employee is not a public purpose. Expenditures for

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130249

city purposes exclude donations of money or goods to organizations and the purchase of advertising, and other nonoperational expenses.

(d) *Commission guidance.* If in doubt concerning the expenditure of public money, officials or employees should consult with the commission.

Sec. 2-2061. Council expense accounts

(a) *Reimbursement.* No councilmember shall seek or cause others to seek reimbursement from city funds in a manner inconsistent with sound financial procedures.

(b) *Sound financial procedures defined.* For purposes of this section, sound financial procedures shall require that:

- (1) *Reconciliation of prior expenses required.* No councilmember shall be eligible for expenditure from council or mayor expense accounts unless prior expenses are reconciled;
- (2) *Receipts or statement of expenses required.* No councilmember shall seek reimbursement unless receipts are provided therefor, or in lieu of receipts, the councilmember signs a statement verifying the amount expended, the date of expenditure, the purpose of the expenditure, and the place such funds were expended;
- (3) *Limited to public business.* No councilmember shall seek or receive reimbursement for any expenditure other than those incurred by such councilmember and related to city business. Reimbursement of any funds for political or personal purposes is prohibited; and
- (4) *Communications equipment.* No councilmember shall seek reimbursement for use of any communication equipment except for city business. "Communication equipment" shall include personal computers with communication capability, modems, fax machines, cellular telephones, radio equipment with telecommunication capability, mobile data terminals and related software.

(c) *Consent to paycheck deductions.* To be eligible for travel advances councilmembers will execute their consent to paycheck deduction in accordance with this section for the recovery of advances not properly reconciled as required by this section.

(d) *Deadline for reconciliation.* Expenses shall be reconciled within 30 days of incurring the expense, or the completion of travel, whichever is later.

(e) *Role of the internal auditor.*

- (1) *Quarterly review.* In order to affirm the fiduciary relationship of the council members to the expenditure of public funds, the internal auditor shall quarterly review all reimbursements to the council and mayor. A written summary report will be provided by the internal auditor to the

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130249

councilmembers within 30 days of the end of each quarterly review period.

- (2) *Additional reviews authorized.* The internal auditor shall also have the authority to review other expenditures authorized by the mayor or council members on the internal auditor's own initiative or at the request of the mayor or mayor pro tem.

(f) *Sanctions.*

- (1) *Prosecution and other actions.* Unless otherwise provided, the provisions of this section shall be subject to the penalty and sanctions provided in division 10 of this article subject to the determination by the ethics commission as set forth in that division.

- (2) *Failure to reconcile expenses.*

(A) *No prosecution.* A violation of subsection (d) shall not result in prosecution under section 2-2100.

(B) *Automatic deduction from council member's paycheck.*

(i) *Notice by the internal auditor.* The internal auditor shall inform the mayor and mayor pro tem of a failure to comply with subsection (d).

(ii) *Mayor pro tem to direct withholding of pay.* Within seven calendar days the mayor pro tem shall direct that the amount of any advance received by the mayor or council member that is not reconciled within the terms of subsection (d) shall be deducted from the mayor's or council member's next paycheck consistent with the policy and practices of the finance department. An advance that exceeds the net amount of a paycheck shall be spread over two or more pay periods until the advance is recovered.

(iii) *Reconciliation of expenses not precluded.* The mayor or council member may reconcile their expenses in accordance with this section and the policy and practices of the finance department after the recovery of the expense advance.

(g) *Preclusion of travel advances.* Nothing in this code of ethics precludes the mayor or the mayor pro tem for the members of the city council from establishing a policy that denies travel advances to the mayor or members of the city council and their staffs.

Sec. 2-2062. Travel and other expenses

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130249

(a) *Travel expenses - All officials and employees.*

- (1) *Report required.* An official or employee traveling on business for the city shall report all expenses incurred by the city for every business trip.
- (2) *Third party expenses.* When expenses for an official or employee are incurred by a person other than that official or employee, the reimbursement request will clearly state by whom the additional expenses were incurred.
- (3) *Maintenance of reports.* These reports shall be maintained by each department or office. The mayor's office shall maintain reports for the mayor and all employees of that office. The mayor pro tem shall maintain reports for the members of the council and all employees of the council.
- (4) *Reconciliation of advances.*
 - (A) *Deadline for reconciliation.* Expenses shall be reconciled within 30 days of incurring the expense, or the completion of travel, whichever is later. The director of finance is authorized to reduce this period through the director's manual of instructions applicable to all employees.
 - (B) *Consent to paycheck deductions.* To be eligible for travel advances, an official or employee will execute their consent to paycheck deduction in accordance with this section for the recovery of advances not properly reconciled as required by this section.
 - (C) *Automatic deduction from paycheck.* Within seven calendar days after the reconciliation is due, the director of finance shall notify the delinquent public official, including an employee, that the amount of any advance received by the official or employee that is not reconciled within seven days shall be deducted from the next or following paycheck depending upon administrative ability of the finance department to provide for the deduction, consistent with the policy and practices of the finance department. An advance that exceeds the net amount of a paycheck shall be spread over two or more pay periods until the advance is recovered based upon a plan authorized by the director of finance.
 - (D) *Reconciliation of expenses not precluded.* The official or employee may reconcile their expenses in accordance with this section and the policy and practices of the finance department after the recovery of the expense advance.
- (5) *Preclusion of travel advances.* Nothing in this code of ethics precludes the city manager or any department director from establishing a policy that denies travel advances to any or all officials or employees.

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130249

(b) *Department expenses incurred for mayor and council members.* When a city department, other than the office of the mayor or the city council office, incurs any expense, the benefit of which goes to a councilmember, whether reimbursed to another or paid directly by the department, a report will be forwarded by that department to the internal auditor within ten days of incurring the expense.

DIVISION 7. POLITICAL ACTIVITIES

Sec. 2-2070. Permitted and prohibited political activities of employees

Sec. 2-2071. Prohibition on required political participation

Sec. 2-2072. City communications - prohibitions related to city elections

Sec. 2-2070. Permitted and prohibited political activities of employees

(a) *Scope.* This section applies to all employees of the city, whether full-time or part-time, classified or unclassified.

(b) *Contributions.* An employee may make contributions to federal, state, and local candidates, committees and other entities authorized by law to accept contributions for political purposes.

(c) *Passive displays of support.* No button, cap, hat, shirt or other passive display may be worn during work hours or if wearing a city uniform or any badge or other insignia indicating the person is a city employee, such as a name tag. An employee may wear a political button, display a bumper sticker, post political signs or make any other passive display in support of a political candidate or position for any election if not wearing a city uniform or any badge or other insignia indicating the person is a city employee. Such passive displays include, but are not limited to, caps, hats, and shirts.

(d) *Campaign participation.*

- (1) *Permitted.* An employee may participate in an election campaign. This may include attendance at social events, including fund raising events.
- (2) *No city support.* An employee may do nothing to imply that the employee is acting with the approval or disapproval of the city. An employee must make an appropriate effort to indicate that participation in a political campaign is one in a personal capacity.
- (3) *Interference in elections.* No employee shall use official authority or influence for the purpose of interfering with any partisan election or any nomination for office, or affecting its result.
- (4) *Employee as candidate.* An employee may run for and hold political office so long as that office is not inconsistent with the employee's municipal duties.

Sec. 2-2071. Prohibition on required political participation

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130249

(a) *Participation.* No official or employee shall require or attempt to coerce, directly or indirectly, an employee to participate or to refrain from participating in any election campaign, whether for or against a candidate, or for or against an issue.

(b) *Contributions.* No official or employee shall require or attempt to coerce, directly or indirectly, an employee to contribute, or to refrain from contributing, money, time or other services to any election campaign or political organization.

(c) *Solicitation.*

(1) *By officials or employees.* No official or employee shall solicit, by way of any explicit or implied threat of any kind, coercion or force, or any promise any employee to contribute money, time or other services to any election campaign or political organization.

(2) *City property or work sites.*

(A) *Prohibition – solicitation.* Solicitation for any political purpose by any person or employees for support, opposition, participation or contributions while in any City building or other work site is not permitted, except employees not on duty and voluntarily in attendance at a rally, meeting or other gathering, may receive solicitations as part of a group.

(B) *Prohibition – allowing solicitation.* No official or employee shall permit any solicitation for support, opposition, participation or contributions in any city building or other work site, unless the space is operated by the city for use of the public at the time of the solicitation.

(3) *Ramifications of political activity.* Lawful participation in political campaigns by an employee shall not result in any benefit or any detriment to the person's employment.

Sec. 2-2072. City communications - prohibitions related to city elections

During the period of time beginning with, and including, the ninetieth day immediately prior to the date of the general election for candidates for mayor or councilmember and ending with, the date of the general election, no elected official shall, or cause another person to, use or utilize city employees within the scope and course of their employment, or city funds, equipment, materials or other resources, including, but not limited to, the city's website, electronic mail and internet systems, duplicating services, ground mail services, postage, telephone systems, equipment, television and recording services and any hardware or software associated with the transmission or storage of electronic media, to do any of the following:

(a) Prepare, publish or distribute a newsletter bearing the picture or other likeness of the elected official;

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130249

(b) Prepare, publish or distribute a newsletter or other communication on the city's website bearing the picture or other likeness of the elected official; other than a single photograph accompanied by the name of the elected official and the elected office held on the webpage of the city's website designated for the mayor's office or the city council office;

(c) Prepare, publish or distribute any advertisement associated with any convention, meeting or event that bears the picture or other likeness of the elected official,

(d) Prepare, publish or distribute any written, electronic or televised communication for inclusion on a city manager or city departmental webpage on the city's website, on a pamphlet, brochure, poster, letter or other writing intended for distribution to the public by, or on behalf of, the city that bears the picture or other likeness of the elected official; or

(e) Prepare, publish, produce, record, distribute or broadcast any televised communication on the city's Channel 2 that bears the picture or other likeness of the elected official; other than announcements of regularly scheduled council district public meetings, and the live and repeat broadcasts on Channel 2 and the city's website of city council legislative, committee and business sessions and any meetings of the city's boards and commissions.

DIVISION 8. REPORTING

Sec. 2-2080. Municipal hotline

Sec. 2-2081. Complicity with, or knowledge of, others' violations

Sec. 2-2082. Whistleblower protection

Sec. 2-2080. Municipal hotline

(a) *Maintenance of hotline.* The city manager will establish and advertise a municipal hotline for the purpose of reporting suspected abuse and wrongdoing by officials or employees and those doing business with the city.

(b) *False statements.* It is unlawful for any person to knowingly make a false report or statement through the municipal hotline.

Sec. 2-2081. Complicity with, or knowledge of, others' violations

No one may, directly or indirectly, induce, encourage, or aid anyone to violate any provision of this code. If an official or employee has actual knowledge that someone has violated this code, he or she is required to report it to the relevant individual, either the employee's supervisor, the board on which the official sits or before which the official or employee is appearing or will soon appear, or the Commission if the violation is past or if it is not immediately relevant to a decision, to discussion, or to actions or transactions. Anyone who reports a violation in good faith will be protected by the provisions of section 2-2082.

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130249

Sec. 2-2082. Whistleblower protection

(a) *Whistleblower defined.* A whistleblower is a present or former city employee or applicant for city employment who discloses information to appropriate officials he or she reasonably believes evidences:

- (1) A violation of any law, rule, or regulation;
- (2) Mismanagement, a gross waste of funds, or an abuse of authority; or
- (3) A substantial or specific danger to public health or safety.

(b) *Personal human resources issues.* Where the information disclosed affects only the personal situation of the complainant, it is generally to be regarded as an allegation of a prohibited personnel practice or violation of other personnel ordinance, rule, or regulation, and the complainant will not be considered a whistleblower.

(c) *Whistleblower protection.* No personnel action will be taken or not taken with respect to any employee or applicant for employment as a reprisal for being a whistleblower.

DIVISION 9. ENFORCEMENT

Sec. 2-2090. Municipal officials and officers ethics commission

Sec. 2-2091. Prohibition on political contributions and support by commission members

Sec. 2-2092. Jurisdiction

Sec. 2-2093. Powers

Sec. 2-2094. Advisory opinions

Sec. 2-2095. Investigations

Sec. 2-2096. Waivers

Sec. 2-2097. Staff

Sec. 2-2098. Disposition

Sec. 2-2090. Municipal officials and officers ethics commission

(a) *Creation.* In accordance with article XI division III of the city charter, there is created a municipal officials and officers ethics commission.

(b) *Appointment.* The mayor shall appoint seven members to the commission, naming one member as chair. Of the remaining six members, no two members will be residents of the same council district.

(c) *Restrictions on members.* No member of the commission shall:

- (1) Hold any other public office;
- (2) Be a candidate for any public office;

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130249

- (3) Be an elected or appointed member of any local, state or national committee of any political party;
- (4) Be an active member of any political party; or
- (5) Be an active member of any partisan or nonpartisan political club or organization.

(d) **Contributions.** Contributions to a candidate or political party otherwise not prohibited by this code do not constitute participation in a political party, club or organization as an active member.

Sec. 2-2091. Prohibition on political contributions and support by commission members

No member of the municipal officials and officers ethics commission shall, during the member's service on the commission or within one year thereafter:

(a) Permit the member's name to be used, or make contributions, in support of or in opposition to any candidate for city elected office or any city proposition; or

(b) Participate in any way in any election campaign for any candidate for city elected office or any city proposition; except that a member shall retain the right to register and vote in any election, to express the member's opinion privately on political subjects or candidates and to participate in the activities of a civic, community, social, labor or professional organization.

Sec. 2-2092. Jurisdiction

(a) **Subject matter.** The commission shall have jurisdiction to investigate and address questions concerning alleged violations of:

- (1) The code of ethics;
- (2) Campaign finance regulations;
- (3) Administrative regulations governing ethical obligations of applicable officials and employees; and
- (4) Any other matter referred to it by the city council.

(b) **Time limitations.** The commission shall not commence any investigation or other action to consider any alleged violation that occurred more than two years prior to the date of the complaint.

(c) **Personnel action.** The commission shall have no jurisdiction to administer employee discipline or to take any job action, including the declaration of the forfeiture of a person's employment or office.

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130249

(d) *Termination of duties.* The termination of an employee's employment or of an official's position does not affect the jurisdiction of the commission to address alleged violations occurring prior to termination of the person's official duties.

(e) *Persons subject to the commission's jurisdiction.* In addition to those persons specifically named in the city charter as persons subject to the commission's jurisdiction, by this section the council expands the commission's jurisdiction to all other employees of the City. The City is also authorized to include by contract other appropriate people within the commission's jurisdiction. Advisory opinions may also be rendered to address possible conflicts of interest if a person assumes a public office.

Sec. 2-2093. Powers

In addition to all other specific grants of authority the commission has the power:

(a) To establish, amend, and rescind rules and procedures governing its own internal organization and operations, consistent with ordinances pertaining to the code of ethics and municipal campaign finance;

(b) To request from the city manager the assignment of staff necessary to carry out its duties;

(c) To review, index, maintain on file, and dispose of sworn complaints;

(d) To make notifications, extend deadlines, and conduct investigations, both on referral or complaint;

(e) To compel the production of sworn testimony, witnesses and evidence;

(f) To recommend cases for consideration of prosecution or other action by appropriate authorities and agencies;

(g) To request the city attorney to provide an independent counsel to advise and represent the board, when appropriate or necessary to avoid a conflict of interest;

(h) To provide assistance in the training and education of city officials and employees with respect to their ethical responsibilities;

(i) To prepare an annual report and to recommend to the city council needed or desirable changes in ordinances under its jurisdiction;

(j) To grant waivers in accordance with this code; and

(k) To exercise such other powers and duties as may be established by ordinance.

Sec. 2-2094. Advisory opinions

(a) *Authority.* The commission may render advisory opinions. The commission may authorize the ethics compliance officer to issue advisory opinions in the name of the commission under rules established by the commission.

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130249

(b) *Requesting advisory opinions.*

- (1) Any official or employee may request in writing an opinion from the commission on a matter that may impact the official or employee personally.
- (2) Any potential applicant for employment, election to office or appointment to a board or commission or other city entity, may request in writing an opinion from the commission on a matter that may impact the person personally.
- (3) The commission shall timely consider all requests and upon the concurrence of at least four members of the commission and without the request of any third party, the commission may issue advisory opinions on any matter within its jurisdiction.

(c) ***Reliance.*** A person who reasonably and in good faith acts in accordance with an advisory opinion issued hereunder shall not have violated the ethics laws by engaging in conduct approved in the advisory opinion, provided that:

- (1) He or she requested the issuance of the opinion;
- (2) The request for an opinion fairly and accurately disclosed all relevant facts;
- (3) No changes have been enacted to the law that is the subject of the advisory opinion or was the basis for the advisory opinion; and
- (4) Less than two years elapsed between the date the opinion was issued and the date of the conduct in question.

Sec. 2-2095. Investigations

(a) *Initiation.*

- (1) ***Complaint.*** The commission, with the affirmative vote of at least four of its members, upon the sworn complaint of any person may investigate any alleged violation.
- (2) ***Commission's own initiative.*** The commission, with the affirmative vote of at least four of its members may investigate any alleged violation.
- (3) ***Mandatory investigation.*** When directed by ordinance the commission shall investigate any alleged violation.

(b) *Availability of witnesses and evidence.*

- (1) ***Oath or affirmation.*** The commission shall have the power to examine witnesses under oath or affirmation.

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130249

- (2) *Subpoenas.* The commission shall have the power to issue subpoenas for persons, documents and other things necessary for an investigation.
- (3) *Duty to cooperate.* Officials and employees have a duty to cooperate with the commission.

(c) *Procedure.*

- (1) *Notification to the person.* The commission shall, upon receiving such sworn complaint, following their own affirmative vote to consider an investigation, or when an investigated is otherwise required, notify the person, in writing, of the nature of the alleged complaint.
- (2) *Response of the person.* The person shall be given at least ten days to provide the commission with such information as the person deems appropriate to explain or justify the circumstances.
- (3) *Decision to continue investigation.* The commission may, by an affirmative vote of at least four members, proceed to commence an investigation for the purpose of producing a final report and recommendations on the matter.
- (4) *Hearing.* At the request of the person the commission shall hold a hearing where the person can provide evidence and testimony and examine any other witnesses called to testify.
- (5) *Response of the person.* Prior to the issuance of its final report and recommendations, the commission shall provide an opportunity for the person to respond to the report and recommendations.

(d) *Exculpatory evidence.* The commission shall disclose to the subject of the investigation any matter known to the commission or its staff tending to negate guilt or mitigate the seriousness of the violation.

(e) *Ex parte communications.* No person will have an *ex parte* communication with any member of the commission about a matter that is, or may be, before the commission.

Sec. 2-2096. Waivers

(a) *Authority.* Acting within its sole discretion, the commission may waive any provision of this code when the situation does not create a potential for:

- (1) Undue influence;
- (2) Unfair advantage; or
- (3) Serious appearance of impropriety.

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130249

(b) *Application.* An application for a waiver will be in writing and fully describe in detail the facts about the situation and the circumstances and reasons justifying a waiver.

(c) *Process.* A waiver must be granted in writing with an explanation by the commission of the justification for the waiver.

(d) *Hearing.* The commission may hold a hearing on any application for a waiver, and if requested by the applicant will hold a hearing.

(e) *Notification.* Copies of the commission's written decision shall be forwarded to the following people:

- (1) Applicant;
- (2) Applicant's department director;
- (4) City manager;
- (5) City clerk, who will retain the decision according to law; and
- (6) Councilmembers.

Sec. 2-2097. Staff

(a) *Ethics compliance officer.* There shall be an ethics compliance officer to perform the following duties:

- (1) Receive and promptly transmit to the members of the commission complaints and responses filed with the commission;
- (2) Investigate, marshal, and present to the commission the evidence bearing upon a complaint;
- (3) Prepare draft advisory opinions for consideration of the commission about the requirements imposed by the ethics laws;
- (4) Assist when requested in the training and education of officials and employees with respect to their ethical responsibilities;
- (5) Recommend acceptance or rejection of complaint made to the commission;
- (6) Request additional information from complainant as needed;
- (7) Render informal, nonbinding opinions upon request; and
- (8) Serve as an advisor on issues of ethics to the Mayor and Council members.

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130249

(b) *Counsel.* The city attorney or an assistant city attorney will serve as legal counsel to the Commission. The city attorney may appoint special counsel under appropriate circumstances. In the absence of the appointment of an ethics compliance officer, the city attorney will serve in that role, with all powers and duties of the position, until a permanent ethics compliance officer is named.

(c) *Access to staff.* The Commission and ethics compliance officer may call upon the city clerk, city auditor, internal auditor, or other appropriate official or employee to assist in an investigation.

(d) *Outside assistance.*

(1) *Availability.* Contingent on the availability of funds, the commission may utilize outside counsel or staff if it is reasonable and necessary to properly complete its work.

(2) *Factors.* Use of outside assistance may be appropriate:

(A) When a complaint is filed relating to an alleged violation of the ethics laws by:

(i) The mayor or a member of the city council, or

(ii) A city employee who is a department head or of higher rank; or

(B) When the commission requests such an appointment; or

(C) When requested by the city attorney.

Sec. 2-2098. Disposition

(a) *Time for decision.* The commission shall issue a decision within 90 days after the filing of a complaint, exclusive of time granted to a respondent pursuant to the person's request for additional time to respond or to attend proceedings. This time may be enlarged by the commission, but any enlargement beyond 90 days will be accompanied by a specific statement explaining the reason for the enlargement of time.

(b) *Violation found.* If the commission finds the ethics laws or municipal campaign finance laws have been violated, the commission will issue a written opinion including findings of fact and conclusions of law and which will include an explanation of:

(1) The violation of the ethics laws or the municipal campaign finance laws; and

(2) Any appropriate action that should be considered by an appointing authority or other appropriate party.

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130249

(c) *Violation not found.* If the commission does not find the ethics laws or municipal campaign finance laws have been violated, the commission will dismiss the complaint. The commission may also issue a written explanation of its conclusion.

(d) *Notification.* Copies of the opinion shall be forwarded to the following people:

- (1) Complainant;
- (2) Subject of the complaint;
- (3) Employee's department director;
- (4) City manager;
- (5) City prosecutor; and
- (6) City clerk, who will retain the opinion according to law.

DIVISION 10. PENALTY AND OTHER RAMIFICATIONS

Sec. 2-2100. Penalty

Sec. 2-2101. Other ramifications

Sec. 2-2102. Commission findings required – councilmembers and certain others

Sec. 2-2100. Penalty

(a) *Penalty.* Violation of any provision of this code may be punished by a fine of not more than \$1,000.00, by imprisonment for a period not to exceed six months, or by both fine and imprisonment.

(b) *Municipal court.* All proceedings for imposing penalties under this section shall be prosecuted in the municipal division of the circuit court of Jackson County, unless ordered otherwise by the presiding judge of the circuit court of Jackson County.

(c) *Commission determination.* No prosecution shall be commenced absent a recommendation of the commission that such violation be prosecuted.

(d) *Restitution.* Should a person be found to have unlawfully used city-owned vehicles, equipment, materials or property for personal convenience or profit, within the meaning of section 2-2003, the court may and is encouraged to, in addition to any other lawful order, require restitution be paid to the city.

Sec. 2-2101. Other ramifications

(a) *Administrative sanction.* Violation of any provision of this code may constitute a cause for suspension, removal from office or employment, disciplinary action, or other actions which may be recommended by the commission.

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130249

(b) *Reprimand and censure.* The commission may, when appropriate, issue letters of reprimand or censure. Reprimand is indicative of serious ethical misconduct or a pattern of ethical misconduct. Censure reflects the commission's judgment that the ethical misconduct found to have occurred merits condemnation.

(c) *Civil actions.* Nothing contained in this code shall preclude any civil action to recover the costs incurred by the city by the misconduct of the official or employee.

(d) *General considerations.* Violation of any provisions of this code should raise conscientious questions for the member of the council or other official or employee concerned as to whether voluntary resignation or other action is indicated to promote the best interest of the city.

Sec. 2-2102. Commission findings required – councilmembers and certain others

(a) *Prerequisite to prosecution.* No penalty or other sanction provided for under this division shall be imposed against any councilmember, the city manager, any assistant city manager, any department head, the city attorney, the city clerk or the city auditor, in the absence of a hearing and a determination of the commission that a provision of this code has been violated.

(b) *Councilmember exception.* Nothing contained in this code shall preclude any action of the city council authorized by city charter section 211 to judge the qualifications of the mayor and members of the city council or to discipline councilmembers.

DIVISION 11. REPORTING

Sec. 2-2110. City manager reports

Sec. 2-2111. Annual report

Sec. 2-2110. City manager reports

Before February 1, May 1, August 1, and November 1, the city manager will submit to the commission a written report on the actions taken by the city concerning any complaint or advisory opinion issued by the commission during the periods January through March, April through June, July through September, and October through December respectively. Matters not reported during the proper quarter will be reported during the next quarter. The commission may request specific information from the city manager.

Sec. 2-2111. Annual report

The commission shall prepare and submit an annual report to the mayor and city council detailing the activities of the commission during the prior year. The format for the report shall be designed to maximize public and private understanding of the commission's operations, and shall include a summary of the content of ethics opinions issued by the commission. The report may recommend changes to the text or administration of the code of ethics.

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130249

Section 3. That section 2-48, Code of Ordinances, is amended to read as follows:

Sec 2-48. Mayor pro tempore.

(a) ***Job responsibilities.*** The mayor pro tempore shall have the following job responsibilities:

- (1) Preside over legislative and business session in the absence of the mayor.
- (2) Manage the council office including the staff, budget, purchasing and office assignments, but take only an advisory role regarding the staff and offices of individual councilmembers.
- (3) Suggest guidelines for council office ethics and office procedures training for city council aides.
- (4) Approve travel expense requests for city council members prior to departure.
- (5) Administer the legislative account.
- (6) Review and suggest updates to the Standing Rules at the beginning of his/her term as mayor pro tempore.

(b) ***Compensation.*** The compensation of the acting mayor of the city, during the absence of the mayor from the city or when for any cause the mayor is unable to perform the mayor's official duties, is hereby fixed at the sum of \$25.00 for each and every day such acting mayor shall perform the official duties of mayor. Such compensation shall be paid in the same manner and at the same time as employees of the city are now paid.

Approved as to form and legality:

William Geary
City Attorney

Code of Ethics



Sections 2-2000 – 2-2111, Code of Ordinances

Purpose: The purpose of this code of ethics is to establish minimum ethical standards of conduct for all officials and employees by setting forth those acts or actions that are incompatible with the best interests of the city and by directing disclosure by such officials and employees of private financial or other interests in matters affecting the city. This code of ethics is designed to prevent unethical behavior, to avoid even the appearance of impropriety, to provide meaningful redress, and to encourage transparency in government.

You are authorized to be stricter, should you desire.

Sections 2-2000(b) & 2-2004(f)

Definition – “Official or Employee”

The mayor and the mayor's assistants; a member of the city council and a member's assistants; *a member of any city board, commission, authority, task force, committee or other organized group of people called to serve the city*; a member of any other board, commission or other organized group of people appointed to that group to serve as a representative of the city; the city manager and all assistant city managers; department directors, including the city clerk and city auditor, and their deputies; contract employees; and all other employees of the city.

Section 2-2001(k)

Definition – “Interest”

A pecuniary, property, or commercial interest, or any other interest the primary significance of which has been, will be, or might be the realization of economic gain or the avoidance of economic loss to an elected official, board member, **his or her relative**, or his or her designee whether direct or indirect; provided, however, that “interest” shall not include any matter involving the common public good or necessity, or any matter in which a similar benefit is conferred to all persons or property similarly situated...

Section 2-2001(j)

Definition – “Relatives”

Any of the following persons related to the employee or the employee’s spouse or domestic partner:

- Children, parents;
- Grandchildren, grandparents, brothers and sisters;
- Great-grandchildren, great-grandparents, nephews and nieces, uncles and aunts; or
- Great-great-grandchildren, great-great-grandparents, grand nephews and grand nieces, first cousins, great uncles and great aunts.

Section 2-2001(m)

Conflict of Interest



Section 2-2020

Conflict of Interest

(a) *Benefits received.* An official or employee may not use his or her official position or office, or take or fail to take any action, or influence others to take or fail to take any action, in a manner which he or she knows, or has reason to believe, may result in a **personal or financial benefit**, not shared with a substantial segment of the city's population . . .

Financial Benefit

Money, service, license, permit, contract, authorization, loan, discount, travel, entertainment, hospitality, gratuity, or any promise of any of these **or anything else of value.**

Section 2-2001(g)

Personal Benefit

Benefits other than those that are directly financially advantageous. These include financial benefits to relatives, business associates, and others, as well as non-financial benefits to these people and to oneself, including such things as reputation and the success of one's career.

Section 2-2001(I)

Conflict of Interest



Other potential conflicts:

- Must disclose (at outset of transaction, project, or discussion about a transaction) if a party appearing before the Board has a substantial financial interest in a project being considered and you supplied goods or services to them in the previous 24 months worth over \$1,000.
- Must state why, in your opinion, a conflict of interest does not exist, and the reason for that opinion (if you opt not to recuse).

Withdrawal

If you have a conflict, simply disclose and withdraw.

- “I have a conflict of interest and am withdrawing from this matter.”
- Such official or employee should join the public if the withdrawal occurs at an open meeting or leave the room if it is a closed meeting. Section 2021(a)

Section 2-2021

Conflict of Interest Annual Report

- Members of all boards, commissions or other entities of the city ... shall file an annual conflict of interest disclosure report on the form provided by the city clerk or equivalent form provided by the state ethics commission. Sec. 2-2024
- Due before May 1st each year

Conflict of Interest Annual Report

Any member of a city board, commission or other entity who is appointed by the mayor or one or more members of the city council who fails to report by June 1 of each year shall be deemed to have resigned membership, and this resignation shall be deemed accepted as of June 1 of the respective year. Sec. 2-2024 (f)

Gifts



Gifts

- Under \$200.00, not considered a gift by definition
- Gifts (which include anything having value) are allowed to be accepted if value is up to \$1,000.00
- Must disclose accepted gifts (up to \$1,000) from any person or business entity having a substantial interest in any legislative or administrative action of the city
- Officials or employees (or family members) may not accept gifts during a calendar year having a cumulative value in excess of \$1,000

Gifts

Anyone receiving a gift as defined in this article shall report such gift within 15 days of the end of the quarter in which the gift was accepted on forms as provided by the city clerk to the city clerk according to the following schedule:

Quarter	Filing Deadline
1 January, February, March	April 15
2 April, May, June	July 15
3 July, August, September	October 15
4 October, November, December	January 15

Section 2-2032 (a)

Other Key Sections

- Confidentiality – Sec. 2-2050
- Political Activities – Sec. 2-2070

Contact



Brian Rabineau

(816) 513-3152

Brian.Rabineau@kcmo.org

Retail sales tax may be imposed in lieu of certain local economic development sales tax—ballot language—collection and distribution of moneys--trust fund and board to be established--repeal of tax, procedure.

67.1305. 1. As used in this section, the term "city" shall mean any incorporated city, town, or village.

2. In lieu of the sales taxes authorized under sections 67.1300 and 67.1303, the governing body of any city or county may impose, by order or ordinance, a sales tax on all retail sales made in the city or county which are subject to sales tax under chapter 144. The tax authorized in this section shall not be more than one-half of one percent. The order or ordinance imposing the tax shall not become effective unless the governing body of the city or county submits to the voters of the city or county at any citywide, county or state general, primary or special election a proposal to authorize the governing body to impose a tax under this section. The tax authorized in this section shall be in addition to all other sales taxes imposed by law, and shall be stated separately from all other charges and taxes. The tax authorized in this section shall not be imposed by any city or county that has imposed a tax under section 67.1300 or 67.1303 unless the tax imposed under those sections has expired or been repealed.

3. The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall (insert the name of the city or county) impose a sales tax at a rate of (insert rate of percent) percent for economic development purposes?

YES NO

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter following the calendar quarter in which the election was held. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not become effective unless and until the question is resubmitted under this section to the qualified voters and such question is approved by a majority of the qualified voters voting on the question, provided that no proposal shall be resubmitted to the voters sooner than twelve months from the date of the submission of the last proposal.

4. All sales taxes collected by the director of revenue under this section on behalf of any county or municipality, less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, shall be deposited in a special trust fund, which is hereby created, to be known as the "Local Option Economic Development Sales Tax Trust Fund".

5. The moneys in the local option economic development sales tax trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The director of revenue shall keep accurate records of the amount of money in the trust fund and which was collected in each city or county imposing a sales tax pursuant to this section, and the records shall be open to the inspection of officers of the city or county and the public.

6. Not later than the tenth day of each month the director of revenue shall distribute all moneys deposited in the trust fund during the preceding month to the city or county which levied the tax. Such funds shall be deposited with the county treasurer of each such county or the appropriate municipal officer in the case of a municipal tax, and all expenditures of funds arising from the local economic development sales tax trust fund shall be in accordance with this section.

7. The director of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credited to any city or county for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such cities and counties.

8. If any county or municipality abolishes the tax, the city or county shall notify the director of revenue of the action at least ninety days prior to the effective date of the repeal and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such city or county, the director of revenue shall remit the balance in the account to the city or county and close the account of that city or county. The director of revenue shall notify each city or county of each instance of any amount refunded or any check redeemed from receipts due the city or county.

9. Except as modified in this section, all provisions of sections 32.085 and 32.087 shall apply to the tax imposed pursuant to this section.

10. (1) No revenue generated by the tax authorized in this section shall be used for any retail development project, except for the redevelopment of downtown areas and historic districts. Not more than twenty-five percent of the revenue generated shall be used annually for administrative purposes, including staff and facility costs.

(2) At least twenty percent of the revenue generated by the tax authorized in this section shall be used solely for projects directly related to long-term economic development preparation, including, but not limited to, the following:

- (a) Acquisition of land;
- (b) Installation of infrastructure for industrial or business parks;
- (c) Improvement of water and wastewater treatment capacity;
- (d) Extension of streets;
- (e) Public facilities directly related to economic development and job creation; and
- (f) Providing matching dollars for state or federal grants relating to such long-term projects.

(3) The remaining revenue generated by the tax authorized in this section may be used for, but shall not be limited to, the following:

- (a) Marketing;

(b) Providing grants and loans to companies for job training, equipment acquisition, site development, and infrastructures;

(c) Training programs to prepare workers for advanced technologies and high skill jobs;

(d) Legal and accounting expenses directly associated with the economic development planning and preparation process;

(e) Developing value-added and export opportunities for Missouri agricultural products.

11. All revenue generated by the tax shall be deposited in a special trust fund and shall be used solely for the designated purposes. If the tax is repealed, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes. Any funds in the special trust fund which are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other city or county funds.

12. (1) Any city or county imposing the tax authorized in this section shall establish an economic development tax board. The volunteer board shall receive no compensation or operating budget.

(2) The economic development tax board established by a city shall consist of at least five members, but may be increased to nine members. Either a five-member or nine-member board shall be designated in the order or ordinance imposing the sales tax authorized by this section, and the members are to be appointed as follows:

(a) One member of a five-member board, or two members of a nine-member board, shall be appointed by the school districts included within any economic development plan or area funded by the sales tax authorized in this section. Such member or members shall be appointed in any manner agreed upon by the affected districts;

(b) Three members of a five-member board, or five members of a nine-member board, shall be appointed by the chief elected officer of the city with the consent of the majority of the governing body of the city;

(c) One member of a five-member board, or two members of a nine-member board, shall be appointed by the governing body of the county in which the city is located.

(3) The economic development tax board established by a county shall consist of seven members, to be appointed as follows:

(a) One member shall be appointed by the school districts included within any economic development plan or area funded by the sales tax authorized in this section. Such member shall be appointed in any manner agreed upon by the affected districts;

(b) Four members shall be appointed by the governing body of the county; and

(c) Two members from the cities, towns, or villages within the county appointed in any manner agreed upon by the chief elected officers of the cities or villages.

Of the members initially appointed, three shall be designated to serve for terms of two years, except that when a nine-member board is designated, seven of the members initially appointed shall be designated to serve for terms of two years, and the remaining members shall be designated to serve for a term of four years from the date of such initial appointments. Thereafter, the members appointed shall serve for a term of four years, except that all vacancies shall be filled for unexpired terms in the same manner as were the original appointments.

(4) If an economic development tax board established by a city is already in existence on August 28, 2012, any increase in the number of members of the board shall be designated in an order or ordinance. The four board members added to the board shall be appointed to a term with an expiration coinciding with the expiration of the terms of the three board member positions that were originally appointed to terms of two years. Thereafter, the additional members appointed shall serve for a term of four years, except that all vacancies shall be filled for unexpired terms in the same manner as were the additional appointments.

13. The board, subject to approval of the governing body of the city or county, shall consider economic development plans, economic development projects, or designations of an economic development area, and shall hold public hearings and provide notice of any such hearings. The board shall vote on all proposed economic development plans, economic development projects, or designations of an economic development area, and amendments thereto, within thirty days following completion of the hearing on any such plan, project, or designation, and shall make recommendations to the governing body within ninety days of the hearing concerning the adoption of or amendment to economic development plans, economic development projects, or designations of an economic development area. The governing body of the city or county shall have the final determination on use and expenditure of any funds received from the tax imposed under this section.

14. The board may consider and recommend using funds received from the tax imposed under this section for plans, projects or area designations outside the boundaries of the city or county imposing the tax if, and only if:

(1) The city or county imposing the tax or the state receives significant economic benefit from the plan, project or area designation; and

(2) The board establishes an agreement with the governing bodies of all cities and counties in which the plan, project or area designation is located detailing the authority and responsibilities of each governing body with regard to the plan, project or area designation.

15. Notwithstanding any other provision of law to the contrary, the economic development sales tax imposed under this section when imposed within a special taxing district, including but not limited to a tax increment financing district, neighborhood improvement district, or community improvement district, shall be excluded from the calculation of revenues available to such districts, and no revenues from any sales tax imposed under this section shall be used for the purposes of any such district unless

recommended by the economic development tax board established under this section and approved by the governing body imposing the tax.

16. The board and the governing body of the city or county imposing the tax shall report at least annually to the governing body of the city or county on the use of the funds provided under this section and on the progress of any plan, project, or designation adopted under this section and shall make such report available to the public.

17. Not later than the first day of March each year the board shall submit to the joint committee on economic development a report, not exceeding one page in length, which must include the following information for each project using the tax authorized under this section:

- (1) A statement of its primary economic development goals;
- (2) A statement of the total economic development sales tax revenues received during the immediately preceding calendar year;
- (3) A statement of total expenditures during the preceding calendar year in each of the following categories:
 - (a) Infrastructure improvements;
 - (b) Land and/or buildings;
 - (c) Machinery and equipment;
 - (d) Job training investments;
 - (e) Direct business incentives;
 - (f) Marketing;
 - (g) Administration and legal expenses; and
 - (h) Other expenditures.

18. The governing body of any city or county that has adopted the sales tax authorized in this section may submit the question of repeal of the tax to the voters on any date available for elections for the city or county. The ballot of submission shall be in substantially the following form:

Shall (insert the name of the city or county) repeal the sales tax imposed at a rate of (insert rate of percent) percent for economic development purposes?

YES NO

If a majority of the votes cast on the proposal are in favor of the repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters of the city or county, and the repeal is approved by a majority of the qualified voters voting on the question.

19. Whenever the governing body of any city or county that has adopted the sales tax authorized in this section receives a petition, signed by ten percent of the registered voters of the city or county voting in the last gubernatorial election, calling for an election to repeal the sales tax imposed under this section, the governing body shall submit to the voters a proposal to repeal the tax. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the tax shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

20. If any provision of this section or section 67.1303 or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or application of this section or section 67.1303 which can be given effect without the invalid provision or application, and to this end the provisions of this section and section 67.1303 are declared severable.

Sec. 68-449. - Imposition of tax (Central City Economic Development Sales Tax 2017).

- (a) *Sales tax enacted.* Pursuant to the authority granted by and subject to the provisions of RSMo § 67.1305, a tax for the benefit of the city is hereby imposed upon all sellers for the privilege of engaging in the business of selling tangible personal property or rendering taxable services at retail to the extent and in the manner provided in RSMo §§ 144.010—144.525 and the rules and regulations of the director of revenue issued pursuant thereto. The rate of the tax shall be 1/8 percent on the receipts from the sale at retail of all tangible personal property or taxable services at retail within the city, if such property and such services are subject to taxation by the state under the provisions of RSMo §§ 144.010—144.525. The tax shall become effective October 1, 2017, for a period of ten years and shall apply to all sales made after September 30, 2017, and shall be collected as provided in RSMo § 67.1305.
- (b) *Use of sales tax—Geographic limitations.* The sales tax authorized pursuant to this section shall be used for projects located in the area bounded by 9th Street on the north; Gregory Boulevard on the south; The Paseo on the west; and Indiana Avenue on the east.
- (c) *Economic development tax board.* A five-member economic development tax board shall be established with city representatives appointed by the mayor and approved by the city council pursuant to RSMo § 67.1305 prior to the expenditure of any revenue received pursuant to this sales tax for the purpose of:
 - (1) Considering economic development plans, economic development projects, or designations of an economic development area;
 - (2) Holding public hearings and providing notice of any such hearings;
 - (3) Recommending to the city council actions concerning the adoption of or amendment to economic development plans, economic development projects, or designations of an economic development area; and
 - (4) Performing other duties established by the city council.
- (d) *Exclusion of revenues.* When imposed within a special taxing district this economic development sales tax shall be excluded from the calculation of revenues available to such districts, and no revenues from this sales tax shall be used for the purposes of any such special taxing district unless recommended by the economic development tax board and approved by the governing body imposing the tax. A special taxing district includes, but is not limited to a tax increment financing district, neighborhood improvement district, or community improvement district.

(Ord. No. 160861 , § 5, 1-12-17)