

## **Chapter 100**

### **GENERAL PROVISIONS**

#### **ARTICLE I**

##### **City Incorporation and Seal**

###### **Section 100.010. Municipal Incorporation.**

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

#### **ARTICLE II**

##### **General Code Provisions**

###### **Section 100.020. Contents of Code.**

This Code contains all ordinances of a general and permanent nature of the City of Marthasville, Missouri, and includes ordinances dealing with municipal administration, municipal elections, building and property regulation, business and occupations, health and sanitation, public order and similar objects.

###### **Section 100.030. Citation of Code.**

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

###### **Section 100.040. Official Copies of Code.**

At least three (3) copies of the published book shall be kept on file in the office of the City Clerk and kept available for inspection by the public at all reasonable business hours.

###### **Section 100.050. Altering or Amending Code.**

A. It shall be unlawful for any person to change or amend by additions or deletions any part or

portion of this Code, or to insert or delete pages or portions thereof, or to alter or tamper with such Official Copy of the Code in any manner whatsoever which will cause the law of the City to be misrepresented thereby. Any person, firm or corporation violating this Section shall be punished as provided in Section 100.210 of this Code.

- B. This provision shall not apply to amendments, additions or deletions to this Code, duly passed by the Board of Aldermen, which may be prepared by the City Clerk for insertion in this Code.

**Section 100.060. Numbering of Code.**

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

**Section 100.070. Definitions and Rules of Construction.** [Ord. No. 251 §II, 1-9-2001]

- A. In the construction of this Code and of all other ordinances of the City, the following definitions shall be observed, unless it shall be otherwise expressly provided in any Section or ordinance, or unless inconsistent with the manifest intent of the Board of Aldermen, or unless the context clearly requires otherwise:

**BOARD OF ALDERMEN** — The Board of Aldermen of the City of Marthasville, Missouri.

**CERTIFIED MAIL** or **CERTIFIED MAIL WITH RETURN RECEIPT REQUESTED** — Includes certified mail carried by the United States Postal Service or any parcel or letter carried by an overnight, express or ground delivery service that allows a sender or recipient to electronically track its location and provides record of the signature of the recipient.

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

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

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

**MAY** — Is permissive.

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

**MISDEMEANOR** — Any violation, failure, neglect or refusal to comply with any provision or requirement of this or any other law or ordinance of this City. Also see "*VIOLATE*".

**MONTH** — A calendar month.

**OATH** — Includes an affirmation in all cases in which an affirmation may be substituted for an oath, and in such cases the words "*swear*" and "*sworn*" shall be equivalent to the words "*affirm*" and "*affirmed*".

**OFFENSE** — Shall mean and be the same as ordinance violation and is punishable as provided

in Section 100.210 of this Code.

**OWNER** — The word "*owner*", as applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety of the whole or a part of such building or land.

**PERSON** — May extend and be applied to bodies politic and corporate, and to partnerships and other unincorporated associations.

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

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

**PROPERTY** — Includes real and personal property.

**PUBLIC WAY** — Includes any street, alley, boulevard, parkway, highway, sidewalk or other public thoroughfare.

**REAL PROPERTY** — The terms "*real property*", "*premises*", "*real estate*" or "*lands*" shall be deemed to be co-extensive with lands, tenements and hereditaments.

**SHALL** — Is mandatory.

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

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

**STREET** — Includes any public way, highway, street, avenue, boulevard, parkway, alley or other public thoroughfare, and each of such words shall include all of them.

**TENANT, OCCUPANT** — The words "*tenant*" or "*occupant*", applied to a building or land, shall include any person who occupies the whole or a part of such building or land, whether alone or with others.

**VIOLATE** — Any violation, failure, neglect or refusal to comply with any provision or requirement of this or any law or ordinance of this City. Also see "*MISDEMEANOR*".

**WRITTEN, IN WRITING and WRITING WORD FOR WORD** — Includes printing, lithographing, or other mode of representing words and letters, but in all cases where the signature of any person is required, the proper handwriting of the person, or his/her mark, is intended.

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

B. *Newspaper.* Whenever in this Code or other ordinance of the City it is required that notice be published in the "official newspaper" or a "newspaper of general circulation published in the City", and if there is no newspaper published within the City, the said notice shall be published in a newspaper of general circulation within the City, regardless of its place of

publication. Such newspaper shall not include an advertising circular or other medium for which no subscription list is maintained.

**Section 100.080. Words and Phrases — How Construed.**

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

**Section 100.090. Headings.**

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

**Section 100.100. Continuation of Prior Ordinances.**

The provisions appearing in this Code, so far as they are in substance the same as those of ordinances existing at the time of the adoption of this Code, shall be considered as a continuation thereof and not as new enactments.

**Section 100.110. Effect of Repeal of Ordinance.**

No offense committed and no fine, penalty or forfeiture incurred, or prosecution commenced or pending previous to or at the time when any ordinance provision is repealed or amended, shall be affected by the repeal or amendment, but the trial and punishment of all such offenses and the recovery of the fines, penalties or forfeitures shall be had, in all respects, as if the provision had not been repealed or amended, except that all such proceedings shall be conducted according to existing procedural laws.

**Section 100.120. Repealing Ordinance Repealed — Former Ordinance Not Revived — When.**

When an ordinance repealing a former ordinance, clause or provision is itself repealed, it does not revive the former ordinance, clause or provision, unless it is otherwise expressly provided; nor shall any ordinance repealing any former ordinance, clause or provision abate, annul or in anywise affect any proceedings had or commenced under or by virtue of the ordinance so repealed, but the same is as effectual and shall be proceeded on to final judgment and termination as if the repealing ordinance had not passed, unless it is otherwise expressly provided.

**Section 100.130. Severability.**

It is hereby declared to be the intention of the Board of Aldermen that the Chapters, Sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph, Section or Chapter of this Code shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, Sections and Chapters of this Code since the same would have been enacted by the Board of Aldermen without the incorporation in this Code of any such unconstitutional or invalid phrase, clause, sentence, paragraph or Section.

**Section 100.140. Tense.**

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

**Section 100.150. Notice.**

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

**Section 100.160. Notice — Exceptions.**

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

**Section 100.170. Computation of Time.**

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

**Section 100.180. Gender.**

When any subject matter, party or person is described or referred to by words importing the masculine, females as well as males, and associations and bodies corporate as well as individuals, shall be deemed to be included.

**Section 100.190. Joint Authority.**

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

**Section 100.200. Number.**

When any subject matter, party or person is described or referred to by words importing the singular number, the plural and separate matters and persons and bodies corporate shall be deemed to be included; and when words importing the plural number are used, the singular shall be included.

**ARTICLE III  
Penalty**

**Section 100.210. General Penalty.**

- A. Whenever in this Code or any other ordinance of the City, or in any rule, regulation, notice or order promulgated by any officer or agency of the City under authority duly vested in him/her or it, any act is prohibited or is declared to be unlawful or an offense, misdemeanor or ordinance violation or the doing of any act is required or the failure to do any act is declared to be unlawful or an offense or a misdemeanor or ordinance violation, and no specific penalty is provided for the violation thereof, upon conviction of a violation of any such provision of this Code or of any such ordinance, rule, regulation, notice or order, the violator shall be punished by a fine not exceeding five hundred dollars (\$500.00) or by imprisonment in the City or County Jail not exceeding ninety (90) days, or by both such fine and imprisonment; provided, that in any case wherein the penalty for an offense is fixed by a Statute of the State, the statutory penalty, and no other, shall be imposed for such offense, except that imprisonments may be in the City prison or workhouse instead of the County Jail.
- B. Every day any violation of this Code or any other ordinance or any such rule, regulation, notice or order shall continue shall constitute a separate offense.
- C. Whenever any act is prohibited by this Code, by an amendment thereof, or by any rule or regulation adopted thereunder, such prohibition shall extend to and include the causing, securing, aiding or abetting of another person to do said act. Whenever any act is prohibited by this Code, an attempt to do the act is likewise prohibited.

## **Chapter 105**

### **ELECTIONS**

#### **ARTICLE I General Provisions**

##### **Section 105.010. Conformance of City Elections With State Law.**

All City elections shall be conducted and held in conformance with the provisions of Chapter 115, RSMo.

##### **Section 105.015. City to Be Divided Into Wards — Aldermen Elected.** <sup>1</sup>

The Board of Aldermen shall, by ordinance, divide the City into not less than two (2) wards, and two (2) Aldermen shall be elected from each ward by the qualified voters thereof at the first (1st) election for Aldermen in Cities adopting the provisions of this Chapter. At such election for Aldermen, the person receiving the highest number of votes in each ward shall hold his/her office for two (2) years, and the person receiving the next highest number of votes shall hold his/her office for one (1) year; but thereafter each ward shall elect annually one (1) Alderman who shall hold his/her office for two (2) years.

##### **Section 105.020. Date of Municipal Election.**

- A. A municipal election for the qualified voters of this City shall be held on the first (1st) Tuesday after the first (1st) Monday in April of each year.
- B. On the first (1st) Tuesday after the first (1st) Monday in April of odd-numbered years, a municipal election of the qualified voters of the City of Marthasville shall be held for the purpose of electing a Mayor who shall hold his/her office for a term of two (2) years and until his/her successor is elected and qualified.
- C. On the first (1st) Tuesday after the first (1st) Monday in April of odd-numbered years, a municipal election of the qualified voters of the City of Marthasville shall be held for the purpose of electing one (1) Alderman from each ward who shall hold his/her office for a term of two (2) years and until his/her successor is elected and qualified.
- D. On the first (1st) Tuesday after the first (1st) Monday in April of even-numbered years, a municipal election of the qualified voters of the City of Marthasville shall be held for the purpose of electing one (1) Alderman from each ward who shall hold his/her office for a term of two (2) years and until his/her successor is elected and qualified.

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1. Cross Reference — As to specific ward boundaries, §105.060.

**Section 105.030. Declaration of Candidacy — Dates for Filing — Fee.** [Ord. No. 66A §2, 6-10-1969]

- A. Any person who desires to become a candidate for an elective City office at the general City election shall file with the City Clerk, not prior to the hour of 8:00 A.M. on the sixteenth (16th) Tuesday prior to nor later than 5:00 P.M. on the eleventh (11th) Tuesday prior to the next City municipal election, a written declaration of his/her intent to become a candidate at said election. The City Clerk shall keep a permanent record of the names of the candidates, the offices for which they seek election and the date of their filing, and their names shall appear on the ballots in that order.
- B. A fee of two dollars (\$2.00) must be paid to the City Clerk and accompany said declaration before the City Clerk shall accept said declaration.

**Section 105.035. Persons in Arrears for Municipal Taxes or Fees Shall Not Be Candidates for Municipal Office, When.** <sup>2</sup>

Notwithstanding any other provisions of law to the contrary, no person shall be certified as a candidate for a municipal office, nor shall such person's name appear on the ballot as a candidate for such office, who shall be in arrears for any unpaid City taxes or municipal user fees on the last day to file a declaration of candidacy for the office.

**Section 105.040. Declaration of Candidacy — Notice to Public.**

The City Clerk shall, on or before the sixteenth (16th) Tuesday prior to any election at which City offices are to be filled by said election, notify the general public of the opening filing date, the office or offices to be filled, the proper place for filing, and the closing filing date of the election. Such notification may be accomplished by legal notice published in at least one (1) newspaper of general circulation in the City.

**Section 105.050. Notice of Elections.**

In City elections, the City Clerk shall notify the County Clerk prior to 5:00 P.M. on the tenth (10th) Tuesday prior to any City election except as noted in Section 115.125.1, RSMo. The notice shall be in writing, shall specify that the Board of Aldermen is calling the election, the purpose of the election, the date of the election, and shall include a certified copy of the legal notice to be published including the sample ballot. The notice and any other information required by this Section may, with the prior notification to the election authority receiving the notice, be accepted by facsimile transmission prior to 5:00 P.M. on the tenth (10th) Tuesday prior to the election, provided that the original copy of the notice and a certified copy of the legal notice to be published shall be received in the office of the election authority within three (3) business days from the date of the facsimile transmission.

ARTICLE II  
**Ward Boundaries**

**Section 105.060. Wards.** [Ord. No. 259 §II, 9-11-2001; Ord. No. 349 §§I — II, 11-16-2011]

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2. Editor's Note — As to arrearage or delinquency in all taxes, see §115.342, RSMo.



A. The City of Marthasville is divided into two (2) Wards, effective at the April, 2012 election, as follows:

1. *Ward I (east ward)*. That portion of the City of Marthasville lying north of the centerline of the street known as "Tiffany Court", east of the centerline of a section of the street known as "Hiawatha Street", south of the centerline of a section of the street known as "Rottmann Drive", east of the centerline of the street known as "Griswold Street" and north of the centerline of a section of the highway known as "State Highway D".
2. *Ward II (west ward)*. That portion of the City of Marthasville lying south of the centerline of the highway known as "State Highway D", west of the centerline of the street known as "Griswold Street", north of the centerline of a section of the street known as "Rottmann Drive", west of the centerline of a section of the street known as "Hiawatha Street" and south of the centerline of the street known as "Tiffany Court".

## Chapter 110

### MAYOR AND BOARD OF ALDERMEN

#### ARTICLE I

#### Mayor and Board of Aldermen — Generally

##### **Section 110.010. Aldermen — Qualifications.** <sup>1</sup>

No person shall be an Alderman unless he/she be at least twenty-one (21) years of age, a citizen of the United States, and an inhabitant and resident of the City for one (1) year next preceding his/her election, and a resident, at the time he/she files and during the time he/she serves, of the ward from which he/she is elected.

##### **Section 110.020. Mayor — Qualifications.**

No person shall be Mayor unless he/she be at least twenty-five (25) years of age, a citizen of the United States, and a resident of the City at the time of and for at least one (1) year next preceding his/her election.

##### **Section 110.030. Board to Select an Acting President — Term.**

The Board shall elect one (1) of their own number who shall be styled "*Acting President of the Board of Aldermen*" and who shall serve for a term of one (1) year.

##### **Section 110.040. Acting President to Perform Duties of Mayor — When.**

When any vacancy shall happen in the office of Mayor by death, resignation, removal from the City, removal from office, refusal to qualify or from any other cause whatever, the Acting President of the Board of Aldermen shall, for the time being, perform the duties of Mayor, with all the rights, privileges, powers and jurisdiction of the Mayor, until such vacancy be filled or such disability be removed or, in case of temporary absence, until the Mayor's return.

##### **Section 110.050. Mayor and Board — Duties.**

The Mayor and Board of Aldermen of each City governed by this Chapter shall have the care, management and control of the City and its finances and shall have power to enact and ordain any and all ordinances not repugnant to the Constitution and laws of this State, and such as they shall deem expedient for the good government of the City, the preservation of peace and good order, the benefit of trade and commerce, and the health of the inhabitants thereof, and such other ordinances, rules and regulations as may be deemed necessary to carry such powers into effect and to alter, modify or repeal the same.

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1. State Law Reference — As to when aldermen may be elected at large, §79.060, RSMo.

**Section 110.060. Mayor May Sit in Board.**

The Mayor shall have a seat in and preside over the Board of Aldermen but shall not vote on any question except in case of a tie, nor shall he/she preside or vote in cases when he/she is an interested party. He/she shall exercise a general supervision over all the officers and affairs of the City and shall take care that the ordinances of the City, and the State laws relating to such City, are complied with.

**Section 110.070. Ordinances — Procedure to Enact.**

The style of the ordinances of the City shall be: "Be it ordained by the Board of Aldermen of the City of Marthasville, as follows:" No ordinance shall be passed except by bill, and no bill shall become an ordinance unless on its final passage a majority of the members elected to the Board of Aldermen shall vote for it, and the "ayes" and "nays" be entered on the journal. Every proposed ordinance shall be introduced to the Board of Aldermen in writing and shall be read by title or in full two (2) times prior to passage, both readings may occur at a single meeting of the Board of Aldermen. If the proposed ordinance is read by title only, copies of the proposed ordinance shall be made available for public inspection prior to the time the bill is under consideration by the Board of Aldermen. No bill shall become an ordinance until it shall have been signed by the Mayor, or person exercising the duties of the Mayor's office, or shall have been passed over the Mayor's veto as herein provided.

**Section 110.080. Bills Must Be Signed — Mayor's Veto.**

Every bill duly passed by the Board of Aldermen and presented to the Mayor and by him/her approved shall become an ordinance, and every bill presented as aforesaid, but returned with the Mayor's objections thereto, shall stand reconsidered. The Board of Aldermen shall cause the objections of the Mayor to be entered at large upon the journal and proceed at its convenience to consider the question pending, which shall be in this form: "Shall the bill pass, the objections of the Mayor thereto notwithstanding?" The vote on this question shall be taken by "ayes" and "nays" and the names entered upon the journal, and if two-thirds (2/3) of all the members-elect shall vote in the affirmative, the City Clerk shall certify the fact on the roll, and the bill thus certified shall be deposited with the proper officer and shall become an ordinance in the same manner and with like effect as if it had received the approval of the Mayor. The Mayor shall have power to sign or veto any ordinance passed by the Board of Aldermen; provided, that should he/she neglect or refuse to sign any ordinance and return the same with his/her objections, in writing, at the next regular meeting of the Board of Aldermen, the same shall become a law without his/her signature.

**Section 110.090. Board to Keep Journal of Proceedings.**

The Board of Aldermen shall cause to be kept a journal of its proceedings, and the "ayes" and "nays" shall be entered on any question at the request of any two (2) members. The Board of Aldermen may prescribe and enforce such rules as it may find necessary for the expeditious transaction of its business.

**Section 110.100. Board Shall Publish Semi-Annual Statements.**

The Board of Aldermen shall semi-annually each year, at times to be set by the Board of Aldermen, make out and spread upon their records a full and detailed account and statement of the receipts and expenditures and indebtedness of the City for the half year ending with the last day of the month immediately preceding the date of such report, which account and statement shall be published in some newspaper in the City.

**Section 110.110. No Money of City to Be Disbursed Until Statement Is Published — Penalty.**

In the event the financial statement of the City is not published as required by Section 110.100, the Treasurer of the City shall not pay out any money of the City on any warrant or order of the Board of Aldermen after the end of the month in which such financial statement should have been published until such time as such financial statement is published. Any Treasurer violating the provisions of this Section shall be deemed guilty of a ordinance violation.

**Section 110.120. Board May Compel Attendance of Witnesses — Mayor to Administer Oaths.**

The Board of Aldermen shall have power to compel the attendance of witnesses and the production of papers and records relating to any subject under consideration in which the interest of the City is involved and shall have power to call on the proper officers of the City, or of the County in which such City is located, to execute such process. The officer making such service shall be allowed to receive therefor such fees as are allowed by law in the Circuit Court for similar services, to be paid by the City. The Mayor or Acting President of the Board of Aldermen shall have power to administer oaths to witnesses.

**Section 110.130. Mayor to Sign Commissions.**

The Mayor shall sign the commissions and appointments of all City Officers elected or appointed in the City and shall approve all official bonds unless otherwise prescribed by ordinance.

**Section 110.140. Mayor Shall Have the Power to Enforce Laws.**

The Mayor shall be active and vigilant in enforcing all laws and ordinances for the government of the City, and he/she shall cause all subordinate officers to be dealt with promptly for any neglect or violation of duty; and he/she is hereby authorized to call on every male inhabitant of the City over eighteen (18) years of age and under fifty (50) to aid in enforcing the laws.

**Section 110.150. Mayor — Communications to Board.**

The Mayor shall, from time to time, communicate to the Board of Aldermen such measures as may, in his/her opinion, tend to the improvement of the finances, the Police, health, security, ornament, comfort and general prosperity of the City.

**Section 110.160. Mayor May Remit Fine — Grant Pardon.**

The Mayor shall have power to remit fines and forfeitures and to grant reprieves and pardons for offenses arising under the ordinances of the City; but this Section shall not be so construed as to authorize the Mayor to remit any costs which may have accrued to any officer of said City by reason of any prosecution under the laws or ordinances of such City.

ARTICLE II  
**Board of Aldermen Meetings**

**Section 110.170. Regular Meetings.** [Ord. No. 345 §I, 8-17-2011]

The Board of Aldermen of the City of Marthasville, Missouri, shall meet in regular session in the City Hall at 7:00 P.M. on the third (3rd) Wednesday of each month.

**Section 110.180. Special Meetings.**

Special meetings may be called by the Mayor or by any three (3) members of the Board by written request filed with the City Clerk who shall thereupon prepare a notice of such special meeting in conformance with Chapter 120, Open Meetings and Records Policy, of this Code.

**Section 110.190. Quorum Must Be Present.**

At the hour appointed, the Mayor, or in his/her absence the Acting President of the Board of Aldermen, shall call the Board to order, the Clerk shall call the roll of members and announce whether or not a quorum is present. A majority of the members elected to the Board shall constitute a quorum. If a quorum not be present, a smaller number may lawfully adjourn the meeting from day to day until a quorum is present.

## Chapter 115

### CITY OFFICIALS

#### ARTICLE I

#### General Provisions

##### **Section 115.010. Elective Officers — Terms.**

The elective officers of the City and their terms shall be those set out in Section 105.020 of this Code.

**Section 115.020. Appointive Officers.** [Ord. No. 14 §3, 2-10-1959; Ord. No. 98 §§I, III, 5-13-1975; Ord. No. 179 §§I — II, 5-8-1990; Ord. No. 243 §1, 3-14-2000; Ord. No. 320 §I, 5-13-2008]

The Mayor, with the consent and approval of the majority of the members of the Board of Aldermen, shall have power to appoint a City Treasurer, City Attorney, City Assessor, Street Commissioner, City Collector, City Water Commissioner, Public Works Director, Chief of Police, three (3) or less Policemen and Night Watchman and such other officers as he/she may be authorized by ordinance to appoint, and if deemed for the best interests of the City, the Mayor and Board of Aldermen may, by ordinance, employ special counsel to represent the City, either in a case of a vacancy in the office of City Attorney or to assist the City Attorney, and pay reasonable compensation therefor, and the person elected Marshal may be appointed to and hold the office of Street Commissioner.

##### **Section 115.030. Removal of Officers.**

The Mayor may, with the consent of a majority of all the members elected to the Board of Aldermen, remove from office, for cause shown, any elective officer of the City, such officer being first given opportunity, together with his/her witnesses, to be heard before the Board of Aldermen sitting as a Board of Impeachment. Any elective officer, including the Mayor, may in like manner, for cause shown, be removed from office by a two-thirds (2/3) vote of all members elected to the Board of Aldermen, independently of the Mayor's approval or recommendation. The Mayor may, with the consent of a majority of all the members elected to the Board of Aldermen, remove from office any appointive officer of the City at will, and any such appointive officer may be so removed by a two-thirds (2/3) vote of all the members elected to the Board of Aldermen, independently of the Mayor's approval or recommendation. The Board of Aldermen may pass ordinances regulating the manner of impeachments and removals.

##### **Section 115.040. Officers to Be Voters and Residents — Exceptions.**

All officers elected to offices or appointed to fill a vacancy in any elective office under the City Government shall be voters under the laws and Constitution of this State and the ordinances of the City except that appointed officers need not be voters of the City. No person shall be elected

or appointed to any office who shall at the time be in arrears for any unpaid City taxes or forfeiture or defalcation in office. All officers, except appointed officers, shall be residents of the City.

**Section 115.050. Officers' Oath — Bond.**

Every officer of the City and his/her assistants and every Alderman, before entering upon the duties of his/her office, shall take and subscribe to an oath or affirmation before some court of record in the County, or the City Clerk, that he/she possesses all the qualifications prescribed for his/her office by law; that he/she will support the Constitution of the United States and of the State of Missouri, the provisions of all laws of this State affecting Cities of this class, and the ordinances of the City, and faithfully demean himself/herself while in office; which official oath or affirmation shall be filed with the City Clerk. Every officer of the City, when required by law or ordinance, shall, within fifteen (15) days after his/her appointment or election, and before entering upon the discharge of the duties of his/her office, give bond to the City in such sum and with such sureties as may be designated by ordinance, conditioned upon the faithful performance of his/her duty, and that he/she will pay over all monies belonging to the City, as provided by law, that may come into his/her hands. If any person elected or appointed to any office shall fail to take and subscribe such oath or affirmation or to give bond as herein required, his/her office shall be deemed vacant. For any breach of condition of any such bond, suit may be instituted thereon by the City, or by any person in the name of the City, to the use of such person. The bond provisions of this Section may be satisfied by the securing of a blanket bond or blanket bonds, approved by the Board of Aldermen, covering such officers by name or position.

**Section 115.060. Salaries Fixed by Ordinance.**

The Board of Aldermen shall fix the compensation of all the officers and employees of the City by ordinance. The salary of an officer shall not be changed during the time for which he/she was elected or appointed.

**Section 115.070. Vacancies in Certain Offices — How Filled.**

If a vacancy occurs in any elective office, the Mayor or the person exercising the duties of the Mayor shall cause a special meeting of the Board of Aldermen to convene where a successor to the vacant office shall be selected by appointment by the Mayor with the advice and consent of a majority of the remaining members of the Board of Aldermen. If the vacancy is in the office of Mayor, nominations of a successor may be made by any member of the Board of Aldermen and selected with the consent of a majority of the members of the Board of Aldermen. The Board of Aldermen may adopt procedures to fill vacancies consistent with this Section. The successor shall serve until the next regular municipal election. If a vacancy occurs in any office not elective, the Mayor shall appoint a suitable person to discharge the duties of such office until the first (1st) regular meeting of the Board of Aldermen thereafter, at which time such vacancy shall be permanently filled.

**Section 115.080. Powers and Duties of Officers to Be Prescribed by Ordinance.**

The duties, powers and privileges of officers of every character in any way connected with the City Government, not herein defined, shall be prescribed by ordinance. Bonds may be required

of any such officers for faithfulness in office in all respects.

ARTICLE II  
**City Clerk**

**Section 115.090. City Clerk — Election — Duties.**

The Board of Aldermen shall elect a Clerk for such Board, to be known as "the City Clerk", whose duties and term of office shall be fixed by ordinance. Among other things, the City Clerk shall keep a journal of the proceedings of the Board of Aldermen. He/she shall safely and properly keep all the records and papers belonging to the City which may be entrusted to his/her care; he/she shall be the general accountant of the City; he/she is hereby empowered to administer official oaths and oaths to persons certifying to demands or claims against the City.

ARTICLE III  
**City Treasurer**

**Section 115.100. Treasurer — Duties — Bond.**

The Treasurer shall receive and safely keep all monies, warrants, books, bonds and obligations entrusted to his/her care and shall pay over all monies, bonds or other obligations of the City on warrants or orders duly drawn, passed or ordered by the Board of Aldermen and signed by the Mayor and attested by the City Clerk and having the Seal of the City affixed thereto and not otherwise and shall perform such other duties as may be required of him/her by ordinance. Before entering upon the duties of his/her office, he/she shall give sufficient bond in the amount as determined by the Board of Aldermen.

ARTICLE IV  
**City Collector**

**Section 115.110. Duties Generally.**

The Collector shall perform all the duties specified in this Code and shall perform such other duties as may be directed by the City Clerk and/or Mayor.

**Section 115.120. Collector to Make Annual Report.**

The Collector shall annually, at such times as may be designated by ordinance, make a detailed report to the Board of Aldermen stating the various monies collected by him/her during the year, and the amounts uncollected, and the names of the persons from which he/she failed to collect, and the causes therefor.

ARTICLE V  
**City Attorney**

**Section 115.130. Qualifications.**

No person shall be appointed to the office of City Attorney unless he/she be a licensed and practicing attorney at law in this State.



ARTICLE VI  
**Public Works Director**

**Section 115.140. Titles and Duties.** [Ord. No. 243 §II, 3-14-2000]

Said Public Works Director shall be the "Street Commissioner" as provided in Section 115.020, the "City Water Commissioner" as provided in Section 115.020 and the "Superintendent" as provided in Chapter 705 (Sewer Regulations), and said Public Works Director shall perform all the duties provided in said ordinances.

ARTICLE VII  
**Miscellaneous Provisions**

**Section 115.150. Officers to Report Receipts and Expenditures.**

It shall be the duty of all the officers of the City to report annually to the Board of Aldermen, such reports to embrace a full statement of the receipts and expenditures of their respective offices and such other matters as may be required by the Board of Aldermen by ordinance, resolution or otherwise.

**Section 115.160. Mayor or Board May Inspect Books and Records of Officers.**

The Mayor or Board of Aldermen shall have power, as often as he/she or they may deem it necessary, to require any officer of the City to exhibit his/her accounts or other papers or records and to make report to the Board of Aldermen, in writing, touching any matter relating to his/her office.

## Chapter 120

### OPEN MEETINGS AND RECORDS POLICY

#### ARTICLE I In General

##### Section 120.010. Definitions.

As used in this Chapter, unless the context otherwise indicates, the following terms mean:

**CLOSED MEETING, CLOSED RECORD or CLOSED VOTE** — Any meeting, record or vote closed to the public.

**COPYING** — If requested by a member of the public, copies provided as detailed in Section 120.100 of this Chapter, if duplication equipment is available.

**PUBLIC BUSINESS** — All matters which relate in any way to performance of the City's functions or the conduct of its business.

**PUBLIC GOVERNMENTAL BODY** — Any legislative, administrative or governmental entity created by the Constitution or Statutes of this State, orders or ordinances of the City, judicial entities when operating in an administrative capacity or by executive order, including:

1. Any advisory committee or commission appointed by the Mayor or Board of Aldermen.
2. Any department or division of the City.
3. Any other legislative or administrative governmental deliberative body under the direction of three (3) or more elected or appointed members having rulemaking or quasi-judicial power.
4. 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.
5. 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 Chapters 352, 353 or 355, RSMo., 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 or ordinance-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 lease-back agreements on structures whose annualized payments commit public tax revenues; or any association that directly accepts the appropriation of money from the City, but only to the extent that a meeting, record or vote relates to such appropriation.

**PUBLIC MEETING** — Any meeting of a public governmental body subject to this Chapter 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 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 (1) location in order to conduct public business.

**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. 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 documents 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.

**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.

**Section 120.020. Meetings, Records and Votes to Be Public — Exceptions.**

- A. All meetings, records and votes are open to the public, except that any meeting, record or vote relating to one (1) or more of the following matters, as well as other materials designated elsewhere in this Chapter, shall be closed unless the public governmental body votes to make them public:
  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 governmental 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, RSMo., however, the amount of any monies 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 or 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 (72) 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 (72) hour period before such decision is made available to the public. As used in this Subsection, the term "*personal information*" means information relating to the performance or merit of individual employees.
  4. Non-judicial mental or physical health proceedings involving an identifiable person, including medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment.
  5. Testing and examination materials, before the test or examination is given or, if it is to be given again, before so given again.
  6. Welfare cases of identifiable individuals.
  7. Preparation, including any discussions or work product, on behalf of a public governmental body or its representatives for negotiations with employee groups.
  8. Software codes for electronic data processing and documentation thereof.
  9. Specifications for competitive bidding, until either the specifications are officially approved by the public governmental body or the specifications are published for bid.
  10. 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.
  11. 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.

12. Records which are protected from disclosure by law.
13. Meetings and public records relating to scientific and technological innovations in which the owner has a proprietary interest.
14. Records relating to municipal hotlines established for the reporting of abuse and wrongdoing.
15. 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.
16. Operational guidelines and policies 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. Nothing in this exception shall be deemed to close information regarding expenditures, purchases or contracts made by an agency in implementing these guidelines or policies. When seeking to close information pursuant to this exception, the agency shall affirmatively state in writing that disclosure would impair its ability to protect the safety or health of persons and shall in the same writing state that the public interest in non-disclosure outweighs the public interest in disclosure of the records. This exception shall sunset on December 31, 2012.
17. 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 non-public 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 non-disclosure outweighs the public interest in disclosure of the records.
  - c. Records that are voluntarily submitted by a non-public entity shall be reviewed by the receiving agency within ninety (90) 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 non-public governmental body or destroyed.
  - d. This exception shall sunset on December 31, 2012.

18. 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 monies paid by, or on behalf of, a public governmental body for such computer, computer system, computer network or telecommunications network, shall be open.
19. 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.

**Section 120.030. Electronic Transmissions — Public Record — When.**

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 (2) 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 exception of Section 610.021, RSMo.

**Section 120.040. Notices of Meetings.**

- A. 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.
- B. Notice conforming with all of the requirements of Subsection (A) of this Section shall be

given at least twenty-four (24) hours, exclusive of weekends and holidays when City Hall 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.

- C. The City shall allow for the recording by audiotape, videotape or other electronic means of any open meeting. The City 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 120.020 shall be permitted without permission of the City; any person who violates this provision shall be guilty of an ordinance violation.
- D. Each 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 a specific exception allowed pursuant to Section 120.020 hereof. The notice shall be the same as described in Subsection (A) herein.
- E. A formally constituted subunit of a parent governmental body may conduct a meeting without notice 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.

**Section 120.050. Closed Meetings — How Held.**

- A. Except as set forth in Subsection (D) of Section 120.040, 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 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.
- B. Any meeting or vote closed pursuant to Section 120.020 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.

**Section 120.060. Journals of Meetings and Records of Voting.**

- A. Except as provided in Section 120.020, 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, shall be cast by members of the public governmental body who are physically present and in attendance at the meeting. 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.

- B. 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 vote taken at such meeting. The minutes shall include the date, time, place, members present, members absent, and a record of 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.

**Section 120.070. Accessibility of Meetings.**

- A. 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.
- B. When it is necessary to hold a meeting on less than twenty-four (24) 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.

**Section 120.080. Segregation of Exempt Material.**

If a public record contains material which is not exempt from disclosure, as well as material which is exempt from disclosure, the custodian shall separate the exempt and non-exempt material and make the non-exempt material available for examination and copying in accord with the policies provided herein. When designing a public record the custodian shall, to the extent practicable, facilitate a separation of exempt from non-exempt information. If the separation is readily apparent to a person requesting to inspect or receive copies of the form, the custodian 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.

**Section 120.090. Custodian Designated — Response to Request for Access to Records.**

- A. The City Clerk shall be the custodian of records and will be responsible for maintenance and control of all records. The custodian may designate deputy custodians in operating



departments of the City and such other departments or offices as the custodian may determine. Deputy custodians shall conduct matters relating to public records and meetings in accord with the policies enumerated herein.

- B. 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.
- C. 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 (3rd) 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 (3) days for reasonable cause.
- D. 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 (3rd) business day following the date that the request for the statement is received.

**Section 120.100. Fees for Copying Public Records — Limitations.**

- A. 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, RSMo., shall not exceed ten cents (\$.10) per page for a paper copy not larger than nine (9) by fourteen (14) 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 (9) by fourteen (14) 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 cost of such programming.

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

## ARTICLE II

### **Law Enforcement Arrest Reports and Records, Incident Reports, Etc.**

#### **Section 120.110. Definitions.**

As used in this Article, the following terms shall have the following definitions:

**ARREST** — An actual restraint of the person of the defendant, or by his/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.

**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.

**INACTIVE** — An investigation in which no further action will be taken by a law enforcement agency or officer for any of the following reasons:

1. A decision by the law enforcement agency not to pursue the case.
2. Expiration of the time to file criminal charges pursuant to the applicable statute of limitations or ten (10) years after the commission of the offense, whichever date earliest occurs.
3. 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.

**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.

**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.

### **Section 120.120. Police Department Records.**

- A. The Police Department of the City shall maintain records of all incidents reported to the Police Department and investigations and arrests made by the Police Department. All incident reports and arrest reports shall be open records. Notwithstanding any other provision of law other than the provisions of Subsection (C) of this Section or Section 320.083, RSMo., investigative reports of the Police Department are closed records until the investigation becomes inactive. If any person is arrested and not charged with an offense against the law within thirty (30) 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 120.140.
- B. Except as provided in Subsections (C) and (D) of this Section, if any portion of a record or document of a Police Department Officer or the Police Department, 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 Police Department investigations or prosecutions, that portion of the record shall be closed and shall be redacted from any record made available pursuant to this Chapter.
- C. Any person, a family member of such person within the first degree of consanguinity of such person if 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 120.140 for purposes of investigation of any civil claim or defense as provided by this Subsection. Any individual, his/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 the Police Department pursuant to this Section. Within thirty (30) days of such request, the Police Department shall provide the requested material or file a motion pursuant to this Subsection with the Circuit Court having jurisdiction over the Police Department 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. Pursuant to Section 610.100(4), RSMo., if, based on such motion, the court finds for the Police Department, 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.
- D. 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 the 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 (\$1,000.00). 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, RSMo. 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 (\$5,000.00) and the court shall order payment by such officer or agency of all costs and attorney fees as provided in Section 610.027, RSMo. 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.

- E. The victim of an offense as provided in Chapter 566, RSMo., may request that his/her identity be kept confidential until a charge relating to such incident is filed.

**Section 120.130. Effect of Nolle Pros, Dismissal and Suspended Imposition of Sentence on Records.**

- A. 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 (B) of this Section and Section 120.140 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, RSMo., 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, RSMo., and in-home services provider agencies as defined in Section 660.250, RSMo., in the manner established by Section 120.140.
- B. If the person arrested is charged with an offense found in Chapter 566, RSMo., Sections 568.045, 568.050, 568.060, 568.065, 568.080, 568.090 or 568.175, RSMo., 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/her own judicial proceeding or if the victim is a minor to the victim's parents or guardian, upon request.

**Section 120.140. Public Access of Closed Arrest Records.**

- A. 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, RSMo. The closed records shall be available to: criminal justice agencies for the administration of criminal justice pursuant to Section 43.500, RSMo., 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, RSMo., to submit and when submitting fingerprints to the central repository; the Sentencing Advisory Commission created in Section 558.019, RSMo., for the purpose of studying sentencing practices in accordance with Section 43.507, RSMo.; to qualified entities for the purpose of screening providers defined in Section 43.540, RSMo.; the

Department of Revenue for driver license administration; the Division of Workers' Compensation for the purposes of determining eligibility for crime victims' compensation pursuant to Sections 595.010 to 595.075, RSMo.; 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.

- B. 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, RSMo. All records which are closed records shall be removed from the records of the Police Department and Municipal Court 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.

**Section 120.150. "911" Telephone Reports.**

Except as provided by this Section, any information acquired by the Police Department 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 120.120. 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.

**Section 120.160. Daily Log or Record Maintained by Police Department of Crimes, Accidents or Complaints — Public Access to Certain Information.**

- A. The City of Marthasville Police Department, if it maintains 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 Police Department;
  2. The time and nature of the Police Department's response to all complaints or requests for assistance; and
  3. If the incident involves an alleged offense 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, RSMo.;

- c. The factual circumstances surrounding the incident; and
- d. A general description of any injuries, property or weapons involved.

## Chapter 123

### SOCIAL MEDIA POLICY

#### **Section 123.010. Overview.** [Ord. No. 380 §1, 7-20-2016]

- A. With the rise of new media and next generation communication tools, the manner in which employees of the City can communicate, both internally and externally, continues to evolve. While this creates new opportunities for communication and collaboration, it also creates new responsibilities for our employees. This Social Media Policy applies to all employees who use the following (which is not intended to be an exhaustive list):
1. Social networking websites, examples of which include Myspace, Facebook, LinkedIn, Twitter and You Tube;
  2. Blogs;
  3. Instant messaging sites;
  4. Wikis, such as Wikipedia and any other site where text can be posted;
  5. Web bulletin boards or chat rooms.
- B. All of these activities are referred to as "social media postings" in this policy.

#### **Section 123.020. Scope of Policy.** [Ord. No. 380 §1, 7-20-2016]

This Social Media Policy covers an employee's personal use of social media postings and the sanctioned use of social media postings for City business purposes.

#### **Section 123.030. Personal Use of Social Media.** [Ord. No. 380 §1, 7-20-2016]

- A. This policy section applies when an employee is using personal/home computers or other personal devices. The City takes no position on employees' decision to participate in the use of social media postings. In general, employees who participate in social media are free to publish their own personal information. An employee should never use City computers or other City-issued devices for personal social media postings.
- B. *Responsible Social Media Postings.* Ultimately, an employee is responsible for what is posted online. Before creating online content, an employee should consider the risks and rewards that are involved, including how social media postings may affect others who perform services for or are employed with the City. Harassment, intimidation or demeaning comments against such persons on social networking sites may result in discipline up to and including dismissal. Thus, the City encourages an employee to always be fair and courteous to coworkers, citizens, suppliers, vendors or other people who work on behalf of the City. Also, an employee should keep in mind that he is more likely to resolve

work-related complaints by speaking directly with coworkers or by addressing the issue or problem with the department head than by posting complaints to a social media outlet. Nevertheless, if an employee decides to post complaints or criticism, he should avoid using statements, photographs, video or audio that reasonably could be viewed as malicious, obscene, threatening or intimidating, that disparages guests, coworkers, citizens, suppliers or vendors, that might constitute harassment or bullying or might violate any applicable law. Examples of such conduct include offensive posts meant to intentionally harm someone's reputation or posts that could contribute to a hostile work environment on the basis of race, sex, disability, age, national origin, ethnicity, pregnancy, religion or any other status protected by law or City policy.

- C. *Identification.* If an employee chooses to identify himself as a City employee on any social media network, he must state in clear terms that the views expressed are the employee's alone and that they do not reflect the views of the City. Employees are prohibited from acting as a spokesperson for the City or posting comments as a representative of the City.
- D. *Honesty And Accuracy.* An employee should ensure that he is always honest and accurate when posting information or news. If an employee makes a mistake, it should be corrected quickly. An employee should be open about any previous posts that have been altered. It is important to remember that the Internet archives almost everything; therefore, even deleted postings can be searched. Never post any information or rumors that are known to be false about the City, coworkers, vendors, or others working on behalf of the City. In short, the City expects its employees, when commenting on matters related to the City's business, services or programs, to exercise good judgment and common sense, consistent with the City's values of honesty, integrity and ethical behavior. Each employee should be mindful that any social media posting may remain public for a long time, if not indefinitely.
- E. *Right To Access.* The City reserves the right to monitor social media postings of employees. Any information that employees post on any social media may be accessed by the City at any time, without prior notice. The City prohibits taking negative employment action against any employee for reporting a possible deviation from this policy or for cooperating in an investigation. Any employee who retaliates against a coworker for reporting a possible deviation from this policy or for cooperating in an investigation will be subject to disciplinary action, up to and including termination.
- F. *Prohibited Activity.* Employees may not disclose confidential information of any department, specifically including confidential information relating to ongoing investigations, or disclose confidential information of third parties who have provided information to any department, including Federal, State or local security/safety information, or disclose private personnel information or protected health information as defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Employees are prohibited from posting, transmitting and/or disseminating the likeness or images of any department logos, emblems, uniforms and other material that specifically identifies any department or the employee as a member of any department.

**Section 123.040. Use of Social Media For City Business Purposes.** [Ord. No. 380 §1, 7-20-2016]

- A. *Social Media Uses.* Social media provides a new and potentially valuable means of



assisting City departments and their personnel in community outreach for problem solving, investigations, crime prevention, recruiting, training, safety education and providing public awareness of the activities of City personnel in serving and protecting the interests of the City's residents and community.

B. Specific uses for City-sanctioned social media include but are not limited to:

1. Time-sensitive notifications related to road closures, special events and weather emergencies.
2. Investigative tool for law enforcement when seeking evidence or information about missing persons, wanted persons, crimes perpetrated online such as cyber bullying or cyber stalking, unsolved crimes through solicitation of tips and posting of photos or videos of a crime by a participant or observer.
3. Alerting the public to the effective law enforcement services of the Police Department.
4. Obtaining information as a recruitment mechanism for persons seeking employment or volunteer positions with the City.

C. *Rules Applicable To City-Sanctioned Use Of Social Media.*

1. All social media postings are subject to all existing City policies.
2. Social media postings containing obscene or sexually explicit language, images or acts and statements or other forms of speech that ridicule, malign, disparage or otherwise express bias or are harassing or demeaning toward City employees, City officials, vendors or others who perform services and work with the City is prohibited.
3. There is no expectation of privacy with social media postings sanctioned by the City. The City reserves the right to monitor use of its devices or networks and to retrieve all social media postings. The City reserves the right to block access from its networks for social media postings at its sole discretion.
4. Employees may not disclose confidential information of any department, specifically including confidential information relating to ongoing investigations, or disclose confidential information of third parties who have provided information to any department, including Federal, State or local security/safety information, or disclose private personnel information or protected health information as defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA).
5. No employee shall divulge information gained by reason of his authority, make any statements or publish any materials that could reasonably be considered to represent the views or positions of any department, without express authorization to do so.
6. No information shall be disclosed which is likely to identify the specific location or identification of any person subject to an emergency call for law enforcement assistance.
7. No employee shall disseminate or transmit in any fashion photographs or images of

- individuals receiving emergency medical assistance. The City is the owner of any photographs or electronic images taken by law enforcement personnel within the scope of employment. Any such photographs or electronic images must be turned in to the proper department authority.
8. The use of social media does not alter or change the emergency or life safety report protocols currently in place. Social media should not be used in place of 9-1-1.
  9. The establishment and use of any City-sanctioned social media sites are subject to approval by the Mayor. All City social media sites shall be administered by the City Clerk.
  10. City social media sites should explicitly state they are maintained by the City and that they follow the City's Social Media Policy, with links to such policy on the official City website.
  11. Wherever possible, City social media sites should link back to the official City and departmental websites for forms, documents, online services and other information necessary to conduct business with the City.
  12. The City Clerk will monitor content on City social media sites to ensure adherence to both the City's Social Media Policy and the interests and goals of the City.
  13. The City reserves the right to restrict or remove any content that is deemed in violation of this Social Media Policy or any applicable law. Comments on topics or issues not considered to be within the relevant concerns of the City may be removed. Notwithstanding the foregoing, no content may be removed from City social media sites without the prior approval of the Mayor.
  14. The City will approach the use of social media tools as consistently as possible among different departments.
  15. The City's website at [www.cityofmarthasvillemo.org](http://www.cityofmarthasvillemo.org) will remain the City's primary and predominant Internet repository of accessible online information.
  16. All City social media sites shall adhere to applicable Federal, State and local laws, regulations and policies.
  17. Any content maintained in a social media format that is related to City business may be considered a public record subject to public disclosure. This may include a list of subscribers (excluding any information of a personal nature), posted communication, and communication submitted for posting.
  18. No employee should conduct political activities or private business through any social media posting.
  19. No employee should post private facts or personal information about someone without his permission that has not been previously revealed to the public, is not of legitimate public concern, and would be offensive to a reasonable person.
  20. No employee shall use someone else's name, likeness, or other personal attributes without that person's permission for an exploitative purpose; or publish the creative

work of another, trademarks, or certain confidential business information without the permission of the owner.

21. This Social Media Policy may be revised at any time.

D. *Designation Of Employees.* The following guidelines apply to designation of employees to use any sanctioned City social media site:

1. Designated employees representing the City via City social media sites must conduct themselves at all times as a representative of the City and in accordance with all City policies. Any such designated City employee who alters, comments or accesses any City social media site is to conduct himself at all times as a representative of the City and, accordingly, shall adhere to all City standards of conduct and observe conventionally accepted protocols and proper decorum.
2. Employees designated to represent individual departments' interests on the City site are to be approved by the Mayor.
3. The use of department computers by designated department personnel to access social media for personal use is prohibited.
4. Designated department personnel use of personally owned devices to manage the department's social media activities or in the course of official duties is prohibited.
5. Such designated employees are to identify themselves as a member of the applicable department within the City.

**Section 123.050. Public Comment Policy.** [Ord. No. 380 §1, 7-20-2016]

- A. As a public entity the City must abide by certain standards to serve all its constituents in a civil and unbiased manner.
- B. The intended purpose behind establishing City social media sites is to disseminate information about the City to its citizens.
- C. Comments containing any of the following inappropriate forms of content shall not be permitted on City social media sites and are subject to removal and/or restriction by the authorized administrators:
  1. Comments not related to the original topic, including random or unintelligible comments;
  2. Profane, obscene, violent, or pornographic content and/or language;
  3. Content that promotes, fosters or perpetuates discrimination on the basis of race, ethnicity, ancestry, pregnancy, disability, color, age, religion, sex, or national origin;
  4. Defamatory or personal attacks;
  5. Threats to any person or organization;
  6. Comments in support of, or in opposition to, any political campaigns or ballot measures;

7. Solicitation of commerce, including but not limited to advertising of any business or product for sale;
  8. Conduct in violation of any Federal, State or local law;
  9. Encouragement of illegal activity;
  10. Information that may tend to compromise the safety or security of the public or public systems; or
  11. Content that violates a legal ownership interest, such as a copyright of any party.
- D. A comment posted by a member of the public on any City social media site is the opinion of the commentator or poster only, and publication of a comment does not imply endorsement of, or agreement by, the City, nor do such comments necessarily reflect the opinions or policies of the City.
- E. The City reserves the right to deny access to City social media sites for any individual who violates the City's Social Media Policy, at any time without prior notice.
- F. City employees are not permitted to respond to any public comment on behalf of the City without prior approval of the Mayor.

## Chapter 125

### MUNICIPAL COURT

#### ARTICLE I

##### Generally

#### **Section 125.010. Violations to Be Heard by Associate Circuit Judge.**

The City of Marthasville, State of Missouri, does hereby elect to have the violations of its municipal ordinances heard and determined by the Associate Circuit Judge of the County of Warren, State of Missouri.

#### **Section 125.020. Additional Court Costs.**

- A. The following charges, in addition to all other lawful court costs, shall be taxed as costs by the appropriate court and paid into the general revenue of the City:
1. The current IRS mileage reimbursement rate as incurred by the City's Police Officers or other appropriate City officials.
  2. Three dollars (\$3.00) for serving subpoenas or summons.
  3. Four dollars (\$4.00) for serving warrants.

#### **Section 125.030. Court Costs.**

- A. The following words and phrases, as used in this Section, shall have the following respective meanings:

**COURT COSTS** — The total of fees, miscellaneous charges and surcharges imposed in a particular case.

**FEES** — The amount charged for services to be performed by the Court.

**MISCELLANEOUS CHARGES** — The amounts allowed by law for services provided by individuals or entities other than the Court.

**SURCHARGES** — Additional charges allowed by law which are all allowed for specific purposes designated by law.

- B. In addition to any fine that may be imposed by the Court, there shall be assessed as court costs the following:
1. Fees of court in the amount of fifteen dollars (\$15.00) for municipal ordinance violations or, after adjustment by the Supreme Court, the amount set by the Supreme Court for municipal ordinance violations.

2. There shall be assessed to each defendant who pleads guilty or is found guilty in each court proceeding for violation of a municipal ordinance, a surcharge for the Crime Victims' Compensation Fund in the amount of seven dollars fifty cents (\$7.50) or an amount as amended by subsequent law; except that no such fee shall be collected in any proceeding when the proceeding or the defendant has been dismissed by the court or when costs are to be paid by the State, County or City. The monies collected pursuant to this Subsection shall be disbursed as provided by law.
3. There shall be assessed to each defendant who pleads guilty or is found guilty in each court proceeding for violation of a municipal ordinance, an additional surcharge in the amount of three dollars (\$3.00), provided that no such fee shall be collected in any proceeding when the proceeding or defendant has been dismissed by the Court or when costs are to be paid by the State, County or City. All sums collected pursuant to this Subsection shall be distributed as follows:
  - a. Two dollars (\$2.00) of the three dollars (\$3.00) shall be transmitted monthly to the Treasurer of the City to be used to pay for Peace Officers' training. The City shall not retain more than one thousand five hundred dollars (\$1,500.00) of such funds for each certified Law Enforcement Officer or candidate for certification employed by the City. Any excess funds shall be transmitted quarterly to the City's general revenue fund.
  - b. One dollar (\$1.00) of the three dollars (\$3.00) shall be sent to the State Treasury to the credit of the Peace Officer Standards and Training Commission Fund.
4. Upon a plea of guilty, finding of guilt or conviction for violation of the ordinances of this City involving alcohol- or drug-related traffic offenses, the Court may, in addition to imposition of any penalties provided by law, order the person to reimburse this City for the costs associated with such arrest.
4. Such costs shall include the reasonable cost of making the arrest, including the cost of any chemical tests to determine the alcohol or drug content of the person's blood and the cost of processing and booking and holding such person in custody.
4. This City's law enforcement authorities shall establish an hourly rate of such costs for submission to the court; however the court may order the costs reduced if it determines that the costs are excessive. The hourly rate for the processing of an alcohol- or drug-related traffic offense will be twenty-eight dollars (\$28.00) per hour for each officer involved in the incident. The cost for breath testing instrument will be eighteen dollars (\$18.00). The cost for laboratory tests will be: Alcohol (blood) twenty-eight dollars (\$28.00); Drug (blood or urine) seventy-five dollars (\$75.00).
4. These fees shall be calculated as additional costs by State or municipal courts and shall be collected by the court in the same manner as other costs and fees collected and remitted to the City of Marthasville Finance Office. The City Finance Officer shall retain these fees in a separate fund known as the "DWI/Drug Enforcement Fund". The monies with the DWI/Drug Enforcement Fund shall be used by the Marthasville Police Department in amounts equal to those costs so incurred and shall be specifically used by the Marthasville Police Department to enhance and support

law enforcement issues within the City of Marthasville.

5. Other miscellaneous charges, such as for the issuance or service of a warrant, a commitment or a summons as provided before the Associate Circuit Judge in criminal prosecutions.
6. Actual charges assessed against the City by the Warren County Sheriff for apprehension or confinement in the County Jail.
7. There shall be assessed to each defendant who pleads guilty or is found guilty in each Court proceeding for violation of a municipal ordinance, an additional surcharge in the amount of two dollars (\$2.00), except that no such fee shall be collected in any proceeding when the proceeding or the defendant has been dismissed by the Court or when costs are to be paid by the City. The two dollars (\$2.00) assessed under the provisions of this Subparagraph shall be transmitted monthly to the Treasurer of the City and placed into an "Inmate Security Fund". Funds deposited shall be utilized to develop a biometric verification system to ensure that inmates can be properly identified and tracked within the local jail system. Upon the installation of the biometric verification system, funds in the Inmate Security Fund may be used for the maintenance of the biometric verification system, and to pay for any expenses related to the custody and housing and other expenses for prisoners.
8. In all civil cases filed in the Circuit Courts of the State of Missouri and in all criminal cases including violation of any municipal or County ordinance heard by an Associate Circuit Judge or any violation of criminal or traffic laws of the State of Missouri, including an infraction, a fee in the amount of seven dollars (\$7.00) shall be assessed as costs, except that no such fee shall be collected in any proceeding involving a violation of an ordinance or State law when a criminal proceeding or defendant has been dismissed by the Court or when costs are waived or are to be paid by the State, County or municipality. All such monies shall be payable to the Director of Revenue, who shall deposit all amounts collected to the credit of the Statewide Court Automation Fund.

## ARTICLE II Administrative Search Warrants

### **Section 125.040. Administrative Search Warrants.**

#### *A. Search Warrant Defined — Who May Issue, Execute.*

1. An administrative search warrant is a written order of the Municipal Judge permitting the entry of City Officials on or into private property, structure or improvement to enforce the City's housing, zoning, health and safety regulations when government entry on or into such property is otherwise authorized by Missouri law. A warrant may issue only in conformance with this Section and only for the enforcement of the City's housing, zoning, health and safety regulations, specifically:
  - a. To inspect private property to determine or prove the existence of physical conditions in violation of a specified regulation,

- b. To seize property or photograph, copy or record evidence of property or physical conditions found thereon or therein, and
    - c. To abate such physical conditions.
  2. The Municipal Judge having original and exclusive jurisdiction to determine violations against the ordinances of the municipality may issue an administrative warrant when:
    - a. The property to be entered is located within the City, and
    - b. The owner or occupant of the property or place to be entered:
      - (1) Has refused to allow same after official request by the City, or
      - (2) Is not available, after reasonable investigation and effort, to consent to such search or inspection.
  3. Any such warrant shall be directed to the Chief of Police or any other Police Officer of the City and shall be executed by the Chief of Police or said Police Officer in conjunction with the Code Enforcement Officer or other appropriate City Official within the City limits and not elsewhere.

B. *Who May Apply For Warrant — Contents Of Application.*

1. Any Code Enforcement Officer, Police Officer or attorney of the City may make application to the Municipal Judge for the issuance of an administrative warrant.
2. The application shall:
  - a. Be in writing;
  - b. State the time and date of the making of the application;
  - c. Identify the property or places to be entered, searched, inspected or seized in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;
  - d. State that the owner or occupant of the property or places to be entered, searched, inspected or seized:
    - (1) Has been requested by the City to allow such action and has refused to allow such action, or
    - (2) Is not available, after reasonable investigation and effort, to consent to such search or inspection;
  - e. State facts sufficient to show probable cause for the issuance of a search warrant as provided in Subsection (C) of this Section to:
    - (1) Search or inspect for violations of an ordinance or Code Section specified in the application; or
    - (2) Show that entry or seizure is authorized and necessary to enforce an



ordinance or Code Section specified in the application and/or abate an ordinance violation and that due process has been afforded prior to the entry or seizure;

- f. Be verified by the oath or affirmation of the applicant; and
  - g. Be signed by the applicant and filed in the Municipal Court.
3. The application may be supplemented by a written affidavit verified by oath or affirmation. Such affidavit shall be considered in determining whether there is probable cause for the issuance of a search warrant and in filling out any deficiencies in the description of the property or place to be searched or inspected. Oral testimony shall not be considered.
  4. The application may be submitted by hand delivery, mail or facsimile or other electronic means.
- C. *Determination Of Probable Cause — Issuance — Contents Of Warrant — Execution And Return.*
1. *Determination of probable cause/issuance.*
    - a. The Municipal Judge shall determine whether probable cause exists to inspect or search for the purposes noted herein.
    - b. In doing so the Municipal Judge shall determine whether the action to be taken by the City is reasonable in light of the facts stated. The Municipal Judge shall consider the goals of the ordinance or Code Section sought to be enforced and such other factors as may be appropriate including, but not limited to, the physical condition of the specified property, the age and nature of the property, the condition of the area in which the property is located, the known violation of any relevant City ordinance or Code Section, the passage of time since the property's last inspection and the authority authorizing government entry onto private property. The standard for issuing a warrant need not be limited to actual knowledge of an existing violation of a City ordinance or Code Section.
    - c. If it appears from the application and any supporting affidavit that there is probable cause to inspect or search the private property for the enforcement of the City's housing, zoning, health and safety regulations, a search warrant shall immediately be issued.
    - d. The warrant shall issue in the form of an original and two (2) copies and the application, any supporting affidavit and one (1) copy of the warrant as issued shall be retained in the records of the Municipal Court.
    - e. A search warrant shall expire if it is not executed within ten (10) days after the date of the making of the application.
  2. *Contents of search warrant.* The search warrant shall:
    - a. Be in writing and in the name of the City;

- b. Be directed to any Police Officer in the City;
  - c. State the time and date the warrant was issued;
  - d. Identify the property or places to be searched, inspected or entered upon in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;
  - e. Identify the regulation sought to be enforced;
  - f. Command that the described property or places be entered upon for one (1) or more specified enforcement purposes as provided herein, including inspection or abatement;
  - g. Direct that any evidence of any suspected ordinance violations be seized, recorded or photographed and a description of such property be returned within ten (10) days after issuance of the warrant to the Clerk of the Municipal Court to be dealt with according to law;
  - h. Be signed by the Judge with his/her title of office indicated.
3. *Execution.* A search warrant issued under this Section shall be executed only by a City Police Officer, provided however, that one (1) or more designated City Officials may accompany the officer and the warrant shall be executed in the following manner:
- a. Copies of the warrant shall be given to the officer executing the warrant. Copies may be transmitted by hand delivery, mail or by facsimile or other electronic means.
  - b. The warrant shall be executed by conducting the search, inspection, entry, abatement or seizure as commanded and shall be executed as soon as practicable and in a reasonable manner but in no less than ten (10) days after issuance of the warrant.
  - c. The officer may summon as many persons as he/she deems necessary to assist him/her in executing the warrant and such persons shall not be held liable as a result of any illegality of the search and seizure.
  - d. The officer shall give the owner or occupant of the property searched, inspected or entered upon a copy of the warrant or shall leave a copy of the warrant at the property if the owner or occupant is not available.
  - e. In the event that a warrant authorizes abatement of a nuisance or other conditions, the Police Officer is not required to stay on the property during the entire length of time that it takes for the abatement to be completed.
4. *Itemized receipt/disposition of seized property.*
- a. If any property is seized incident to the search or abatement, the officer shall give the person from whose possession it was taken, if the person is present, an itemized receipt for the property taken. If no such person is present, the officer

shall leave the receipt at the site of the search or abatement in a conspicuous place.

- b. A copy of the itemized receipt of any property taken shall be delivered to an attorney for the City within two (2) working days of the search.
  - c. The disposition of property seized pursuant to a warrant under this Section shall be in accordance with an applicable City ordinance or Code Section, but in the absence of same, then with Section 542.301, RSMo.
5. *Return required after execution of search warrant.*
- a. After execution of the search warrant, the warrant, with a return thereon signed by the officer making the search, shall be delivered to the Municipal Court.
  - b. The return shall show the date and manner of execution and the name of the possessor and of the owner, when not the same person, if known, of the property or places searched or seized.
  - c. The return shall be accompanied by any photographs, copies or recordings made and by any property seized, along with a copy of the itemized receipt of such property required by this Section; provided however, that seized property may be disposed of as provided herein and, in such a case, a description of the property seized shall accompany the return.
  - d. The Court Clerk, upon request, shall deliver a copy of the return to the possessor and the owner, when not the same person, of the property searched or seized.

D. *Warrant Invalid, When.*

- 1. A search warrant shall be deemed invalid:
  - a. If it was not issued by the Municipal Judge;
  - b. If it was issued without a written application having been filed and verified;
  - c. If it was issued without sufficient probable cause in light of the goals of the ordinance to be enforced and such other factors as provided in Subsection (C) hereof;
  - d. If it was not issued with respect to property or places in the City;
  - e. If it does not describe the property or places to be searched, inspected, entered upon or seized with sufficient certainty;
  - f. If it is not signed by the Judge who issued it; or
  - g. If it was not executed within ten (10) days after the date of the issuance of the warrant.
- 2. An officer making a search pursuant to an invalid warrant, the invalidity of which is not apparent on its face, may use such force as he/she would be justified in using if the warrant were valid.

## Chapter 128

### BOARDS, COMMISSIONS AND COMMITTEES

#### ARTICLE I

#### Park Board

##### **Section 128.010. Park Board — Appointment.**

The City does hereby establish and maintain public parks under Sections 90.500 to 90.570, RSMo., the Mayor of the City shall, with the approval of the Board of Aldermen, proceed to appoint a Board of nine (9) directors for the same, chosen from the citizens at large with reference to their fitness for such office, and no member of the municipal government shall be a member of the Board.

##### **Section 128.020. Park Directors — Terms of Office.**

The Directors shall hold office, one-third ( $\frac{1}{3}$  for one (1) year, one-third ( $\frac{1}{3}$  for two (2) years and one-third ( $\frac{1}{3}$  for three (3) years from the first (1st) of June following their appointment, and at their first (1st) regular meeting shall cast lots for their respective terms; and annually thereafter the Mayor shall, before the first (1st) of June of each year, appoint as before three (3) directors, who shall hold office for three (3) years and until their successors are appointed. The Mayor may, by and with the consent of the Board of Aldermen, remove any Director for misconduct or neglect of duty.

##### **Section 128.030. Park Board — Annual Report.**

The said Board of Directors shall make, on or before the second (2nd) Monday in June, an annual report to the Board of Aldermen stating the condition of their trust on the first (1st) day of May of that year, the various sums of money received from the Park Fund and other sources, and how much monies have been expended and for what purposes, with such other statistics, information and suggestions as they may deem of general interest. All such portions of such report as relate to the receipt and expenditure of money shall be verified by affidavit.

##### **Section 128.040. Public Park — Private Donations.**

Any person desiring to make donations of money, personal property or real estate for the benefit of such park shall have a right to vest the title to the money or real estate so donated in the Board of Directors created under Sections 90.500 to 90.570, RSMo., to be held and controlled by such Board when accepted according to the terms of the deed, gift, devise or bequest of such property; and as to such property, the said Board shall be held and considered to be the special trustees.

## **Chapter 130**

### **TAXATION AND FINANCE**

#### **ARTICLE I**

##### **Fiscal Year**

###### **Section 130.010. Fiscal Year Established.**

The fiscal year for the City of Marthasville shall begin July first (1st) of each year.

#### **ARTICLE II**

##### **Budget**

###### **Section 130.020. Budget Required — Contents — Expenditures Not to Exceed Revenues.**

- A. Prior to the commencement of each fiscal year, a budget for the City shall be prepared and the same will be presented to and approved by the Board of Aldermen.
- B. The annual budget shall present a complete financial plan for the ensuing fiscal year and shall include at least the following information:
  - 1. A budget message describing the important features of the budget and major changes from the preceding year;
  - 2. Estimated revenues to be received from all sources for the budget year, with a comparative statement of actual or estimated revenues for the two (2) years next preceding, itemized by year, fund and source;
  - 3. Proposed expenditures for each department, office, commission and other classification for the budget year, together with a comparative statement of actual or estimated expenditures for the two (2) years next preceding, itemized by year, fund, activity and object;
  - 4. The amount required for the payment of interest, amortization and redemption charges on the debt of the City; and
  - 5. A general budget summary.
- C. In no event shall the total proposed expenditures from any fund exceed the estimated revenues to be received plus any unencumbered balance or less any deficit estimated for the beginning of the budget year; provided, that nothing herein shall be construed as requiring the City to use any cash balance as current revenue or to change from a cash basis of financing its expenditures.

###### **Section 130.030. Budget Officer.**

- A. The budget shall be prepared under the direction of a Budget Officer. Except as otherwise provided by law or ordinance, the Budget Officer shall be designated by the Board of Aldermen of the City. All officers and employees shall cooperate with and provide to the Budget Officer such information and such records as he/she shall require in developing the budget. The Budget Officer shall review all the expenditure requests and revenue estimates, after which he/she shall prepare the proposed budget as defined herein.
- B. After the Budget Officer has prepared the proposed budget, he/she shall submit it, along with such supporting schedules, exhibits, and other explanatory material as may be necessary for the proper understanding of the financial needs and position of the City, to the Board of Aldermen. He/she shall submit at the same time complete drafts of such orders, motions, resolutions or ordinances as may be required to authorize the proposed expenditures and produce the revenues necessary to balance the proposed budget.

**Section 130.040. Board of Aldermen May Revise Budget, Limits — Approval.**

The Board of Aldermen may revise, alter, increase or decrease the items contained in the proposed budget, subject to such limitations as may be provided by law; provided, that in no event shall the total authorized expenditures from any fund exceed the estimated revenues to be received plus any unencumbered balance or less any deficit estimated for the beginning of the budget year. Except as otherwise provided by law, the Board of Aldermen shall, before the beginning of the fiscal year, approve the budget and approve or adopt such orders, motions, resolutions or ordinances as may be required to authorize the budgeted expenditures and produce the revenues estimated in the budget.

**Section 130.050. Increase of Expenditure Over Budgeted Amount to Be Made Only on Formal Resolution.**

After the City has approved the budget for any year and has approved or adopted the orders, motions, resolutions or ordinances required to authorize the expenditures proposed in the budget, the City shall not increase the total amount authorized for expenditure from any fund, unless the Board of Aldermen adopts a resolution setting forth the facts and reasons making the increase necessary and approves or adopts an order, motion, resolution or ordinance to authorize the expenditures.

**ARTICLE III  
Levy of Taxes**

**Section 130.060. Board to Provide for Levy and Collection of Taxes — Fix Penalties.**

The Board of Aldermen shall, from time to time, provide by ordinance for the levy and collection of all taxes, licenses, wharfage and other duties not herein enumerated and, for neglect or refusal to pay the same, shall fix such penalties as are now or may hereafter be authorized by law or ordinance.

**Section 130.070. Fixing Ad Valorem Property Tax Rates, Procedure.**

The Board of Aldermen shall hold at least one (1) public hearing on the proposed rates of taxes at which citizens shall be heard prior to their approval. The Board of Aldermen shall determine

the time and place for such hearing. A notice stating the hour, date and place of the hearing shall be published in at least one (1) newspaper qualified under the laws of the State of Missouri of general circulation in the County within which all or the largest portion of the City is situated, or such notice shall be posted in at least three (3) public places within the City; except that, in any County of the First Class having a Charter form of government, such notice may be published in a newspaper of general circulation within the City even though such newspaper is not qualified under the laws of Missouri for other legal notices. Such notice shall be published or posted at least seven (7) days prior to the date of the hearing. The notice shall include the assessed valuation by category of real, personal and other tangible property in the City for the fiscal year for which the tax is to be levied as provided by Subsection (3) of Section 137.245, RSMo., the assessed valuation by category of real, personal and other tangible property in the City for the preceding taxable year, for each rate to be levied the amount of revenue required to be provided from the property tax as set forth in the annual budget adopted as provided by Chapter 67, RSMo., and the tax rates proposed to be set for the various purposes of taxation. The tax rates shall be calculated to produce substantially the same revenues as required in the annual budget adopted as provided in this Chapter. Following the hearing the Board of Aldermen shall fix the rates of taxes, the same to be entered in the tax book. Failure of any taxpayer to appear at such hearing shall not prevent the taxpayer from pursuit of any other legal remedy otherwise available to the taxpayer. Nothing in this Section absolves the City of responsibilities under Section 137.073, RSMo., nor to adjust tax rates in event changes in assessed valuation occur that would alter the tax rate calculations.

**Section 130.080. Board to Fix Rate of Levy.**

The Board of Aldermen shall, within a reasonable time after the Assessor's books of each year are returned, ascertain the amount of money to be raised thereon for general and other purposes and fix the annual rate of levy therefor by ordinance.

**Section 130.090. Assessment — Method of.**

In the absence of a City Assessor, and until such City Assessor is duly appointed and qualified, it shall be the duty of the Mayor of the City to procure from the County Clerk of Warren County, Missouri, on or before the first (1st) day of October of each year a certified abstract from his/her assessment books of all property within the corporate limits of the City made taxable by law for State purposes and the assessed valuation thereof as agreed upon by the Board of Equalization, which abstract shall be immediately transmitted to the Board of Aldermen, and it shall be the duty of the Board of Aldermen to establish by ordinance the rate of taxes for the year.

**Section 130.100. Clerk to Prepare Tax Books.**

When the Board of Aldermen shall have fixed the rate of taxation for any given year, it shall be the duty of the City Clerk to cause to be prepared appropriate and accurate tax books and shall therein set out in suitable columns, opposite the name of each person and the item of taxable property as returned by the Assessor and Board of Equalization, the amount of taxes, whether general or special, due thereon and shall charge the City Collector with the full amount of taxes levied and to be collected.

**Section 130.110. Taxes Delinquent — When.**

On the first (1st) day of January of each year, all unpaid City taxes shall become delinquent and the taxes on real estate are hereby made a lien thereon; and all such delinquent taxes shall bear interest thereon at the rate of two percent (2%) per month from the time they become delinquent, not to exceed eighteen percent (18%) per year, until paid and shall also be subject to the same fees, penalties, commissions and charges as provided by law of the State of Missouri for delinquent State and County taxes and shall be collected from the property owners, and the enforcement of all taxes, penalties, fees, commissions and charges authorized by law and provided for herein to be paid by property owners shall be made in the same manner and under the same rules and regulations as are or may be provided by law for the collection and enforcement of the payment of State and County taxes, including fees, penalties, commissions and other charges.

ARTICLE IV  
Sales Taxes

**Section 130.120. Imposition of City Sales Tax.**

Pursuant to the authority granted by and subject to the provisions of Sections 94.500 — 94.550, RSMo., a tax for general revenue purposes is hereby imposed upon all sellers for the privilege of engaging in the business of selling personal property or rendering taxable services at retail to the extent and in the manner provided in Sections 144.010 — 144.525, RSMo., and the rules and regulations of the Director of Revenue issued pursuant thereto. The rate of the tax shall be one percent (1%) on the receipts from the sale at retail of all personal property or taxable services at retail within the City of Marthasville, Missouri, if such property and taxable services are subject to taxation by the State of Missouri under the provisions of Sections 144.010 — 144.525, RSMo. The tax shall become effective as provided in Subsection (1) of Section 94.510, RSMo., and shall be collected pursuant to the provisions of Sections 94.500 — 94.550, RSMo. Provided however, that all sales in the City of Marthasville, Missouri, of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil for domestic use shall be exempt from taxation under this Section.

**Section 130.130. Sales Tax for Capital Improvements.** [Ord. No. 305 §§I — III, 1-9-2007]

- A. Pursuant to the authority granted by and subject to the provisions of Section 94.577, RSMo., a sales tax for the purpose of funding capital improvements, to wit: the construction of streets, sewage and stormwater improvements, including the operation and maintenance thereof, is hereby imposed upon all sellers in the City of Marthasville who are engaged in the business of selling tangible personal property or rendering taxable services at retail to the extent and in the manner provided in Sections 144.010 to 144.525, RSMo., for the privilege of engaging in such business at the rate of one-half of one percent (0.5%) on the receipts from the sale at retail of all tangible personal property for taxable services at retail within the City of Marthasville. Said sales tax shall be imposed to the extent and in the manner provided in Sections 144.010 to 144.525, RSMo., and the rules and regulations of the Director of Revenue issued pursuant thereto.
- B. The amount of sales tax to be reported and returned to the Director of Revenue by the seller shall be computed on the basis of the combined rate of the tax imposed by Sections



144.010 to 144.525, RSMo., and the tax imposed by this Section as authorized by Section 94.577, RSMo., plus any amounts imposed under other provisions of law.

- C. This Section shall take effect and be in full force from and after its passage and approval and after the approval by a majority of the votes cast on the proposal to authorize the Governing Body of this municipality to impose such tax by the qualified voters voting thereon and the sales tax shall become effective on the first (1st) calendar quarter after the Director of Revenue receives notice of the adoption of such tax, beginning July 1, 2007.

**Section 130.140. Imposition of Sales Tax for Transportation Purposes.**

Pursuant to the authority granted by and subject to the provisions of Sections 94.700 — 94.755, RSMo., a sales tax for transportation purposes is hereby imposed upon all persons in the City of Marthasville who are engaged in the business of selling personal property and services subject to a sales tax under the provisions of Sections 144.010 — 144.525, RSMo., for the privilege of engaging in such business at the rate of one-half of one percent (0.5%) on the receipts from the sale at retail of all personal property or services at retail within the City of Marthasville. Said sales tax shall be imposed in the manner and to the extent provided in Sections 144.010 — 144.525, RSMo., and the rules and regulations of the Director of Revenue issued pursuant thereto.

**Section 130.150. State Imposed Sales Tax Holiday — Exemptions.** [Ord. No. 295 §§I — II, 2-14-2006]

- A. The City of Marthasville, Missouri, hereby determines that it will prohibit the provisions of Section 144.049, RSMo., 2003, from exempting sales of certain clothing, personal computers, certain computer software and school supplies that occur within the boundaries of said City from local sales taxes.
- B. The City Clerk is hereby directed to send written notice to the State of Missouri Department of Revenue as soon as possible, but no later than June 20, 2006, of the decision to opt out of the "Sales Tax Holiday" by forwarding a cover letter and certified copy of this Section.