

Chapter 2

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***Editor's note**—Section 1 of Ordinance No. 7497, repealed former Ch. 2 and substituted a new Ch. 2 in lieu thereof, to read as set out herein. Prior to such enactment, Ch. 2 contained similar provisions and derived from various sections of the General Ordinances of 1959 and the ordinances listed below:

Ord. No.	Section	Date	Ord. No.	Section	Date
4650	2	10- 6-60	6113	1	4-14-77
4780	2, 8(j)	8- 9-62	6120	1, 2, 4, 5	4-21-77
4964	1, 3, 4	5-20-65	6172	1	8- 4-77
5250	2	4-10-69	6215	1	12-15-77
5645	1—4	11- 8-73	6272	1	4-18-78
5993	2	7-15-76	6280	1, 2	5-18-78
6016	2	9- 2-16	6320	1	8-17-78
6030	1	10-14-76	6415	1	4-19-79
6032	1	10-14-76	6436	2(g)	6-21-79
6033	1	10-14-76	6663	1—5	11-20-80
6060	1	12- 9-76	6958	1	11- 4-82
6109	1—6	4-14-77	7162	1	3- 1-84
6110	1	4-14-77	7208	1	6-21-84
6111	1	4-14-77	7232	2—9	8- 2-84
6112	1	4-14-77	7251	1, 2, 1(1)—1(8)	9-20-84

Cross references—Elections, Ch. 7; fire department, § 8-30 et seq.; municipal court, Ch. 15; damaging city property, § 17-60; offenses involving interference with governmental functions, § 17-107 et seq.; department of recreation, § 18-73 et seq.; pensions and retirement, Ch. 18½; police department, § 19-63 et seq.; administration of city utilities, § 23.32 et seq.; city electric system, § 23-57 et seq.

ARTICLE I. GENERAL PROVISIONS

Sec. 2-1. Free public library established; administration generally.

A free public library and reading room is hereby established in the city, which shall be governed by a board of nine (9) directors, in accordance with the provisions of sections 182.140 to 182.280, inclusive, of the Revised Statutes of Missouri. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-2. Personnel ordinances continued.

All ordinances of the city establishing a civil service system and prescribing the duties, rights and compensation of city personnel, including all pension ordinances, are hereby expressly saved from repeal, and are continued in full force and effect. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-3. Merit system.

All appointments and promotions of city officers and employees shall be on the basis of merit and fitness demonstrated by examination or other evidence of competence. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-4. Prohibitions.

- (a) *Activities prohibited.*
 - (1) No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any city position or appointive city administrative office because of race, sex, age, physical handicap, political or religious opinions or affiliations.

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- (2) No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the provisions of the city Charter or the ordinances, rules, and regulations made thereunder, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, ordinances, rules and regulations.
- (3) No person who seeks appointment or promotion with respect to any city position or appointive city administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with such person's test, appointment, proposed appointment, promotion or proposed promotion.

(b) *Penalties.* Any person who is convicted of violating any of the provisions set forth in section 2-4(a) shall be deemed guilty of a misdemeanor and shall be subject to fine, imprisonment, or both, as provided for in section 1-8. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-5. Conflicts of interest; Personal financial interest; Disclosure reports.

(a) All elected and appointed officials as well as employees of the city must comply with the applicable provisions of Section 105.450 through 105.498 of Missouri Revised Statutes on conflicts of interest as well as any other state law governing official conduct.

(b) Any city officer, board member, council member, commission member or employee who has a substantial financial interest, direct or indirect, or by reason of ownership of stock in any corporation, in any contract with the city or in the sale of any land, material, supplies or services to the city or to a contractor supplying the city, shall make known that interest and shall refrain from voting upon or otherwise participating as a city officer, board member, council member, commission member or employee in the making of such contract. Any person who is a city officer, board member, council member, commission member or employee who willfully conceals such a substantial financial interest or willfully violates the requirements of this subsection (b) shall be guilty of malfeasance in office or position and shall forfeit such person's office or position. Violation of this subsection (b) with the knowledge, express or implied, of the person or corporation contracting with or making a sale to the city shall render the contract or sale voidable by the chief administrative officer or the city council.

(c) Any member of the governing body of the city who has a "substantial or private interest" in any measure, bill, order or ordinance proposed or pending before such governing body must disclose that interest to the city clerk and such disclosure shall be recorded in the appropriate journal of the city. For the purposes of this Section, substantial or private interest is defined as ownership by the individual, his spouse, or his dependent children, whether singularly or collectively, directly or indirectly of: (1) 10% or more of any business entity; or (2) an interest having a value of \$10,000 or more; or (3) the receipt of a salary, gratuity, or other compensation or remuneration of \$5,000 or more, per year from any individual, partnership, organization, or association within any calendar year.

(d) Each elected official, the chief administrative officer, the chief purchasing officer as identified in Section 105.483(11) of the Missouri Revised Statutes, and the full-time general counsel, if any, shall disclose the following information by May 1 if any such transactions occurred during the previous calendar year:

- (1) For such person, and all persons within the first degree of consanguinity or affinity of such person, the date and the identities of the parties to each transaction with a total value

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in excess of five hundred dollars, if any, that such person had with the city, other than compensation received as an employee or payment of any tax, fee or penalty due to the city, and other than transfers for no consideration to the city.

- (2) The date and the identities of the parties to each transaction known to the person with a total value in excess of five hundred dollars, if any, that any business entity in which such person had a substantial interest, had with the city, other than payment of any tax, fee or penalty due to the city or transactions involving payment for providing utility service to the city, and other than transfers for no consideration to the city.
- (3) The chief administrative officer and the chief purchasing officer also shall disclose by May 1 for the previous calendar year the following information:
 - a. The name and address of each of the employers of such person from whom income of one thousand dollars or more was received during the year covered by the statement;
 - b. The name and address of each sole proprietorship that he owned, the name, address and the general nature of the business conducted of each general partnership and joint venture in which he was partner or participant; the name and address of each partner or coparticipant for each partnership or joint venture unless such names and addresses are filed by the partnership or joint venture with the secretary of state; the name, address and general nature of the business conducted of any closely held corporation or limited partnership in which the person owned ten percent (10%) or more of any class of the outstanding stock or limited partnership units; and the name of any publicly traded corporation or limited partnership that is listed on a regulated stock exchange or automated quotation system in which the person owned two percent (2%) or more of any class of outstanding stock, limited partnership units or other equity interests;
 - c. The name and address of each corporation for which such person served in the capacity of a director, officer or receiver.
- (e) The financial interest statements shall be filed at the following times, but no person is required to file more than one financial interest statement in any calendar year;
 - (1) Every person required to file a financial interest statement shall file the statement annually not later than May 1 and the statement shall cover the calendar year ending the immediately preceding December 31; provided that any member of the city council may supplement the financial interest statement to report additional interests acquired after December 31 of the covered year until the date of filing of the financial interest statement.
 - (2) Each person appointed to office shall file the statement within thirty (30) days of such appointment or employment.

Financial disclosure reports giving the financial information required in subsection (e) shall be filed with the city clerk and the Missouri Ethics Commission. The reports shall be available for public inspection and copying during normal business hours.

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(Ord. No. 7497, §1, 3-13-86; Ord. No. 8079, §1, 9-5-91; Ord. No. 8445, §1, 8-17-95)

Sec. 2-6. Political activity.

No city employee shall solicit any contribution for the campaign fund of any candidate for Kirkwood city office or take part in the political campaign of any candidate for Kirkwood city office. All employees may exercise their rights as private citizens to express opinions and, if a registered voter in Kirkwood, sign a nominating petition for any city candidate and vote in any city election. Political affiliation, participation or contribution shall not be considered in making any city employment decision. No city officer, employee or member of a board or commission shall use official authority or official influence for the purpose of interfering with or affecting the result of an election to or nomination for Kirkwood city office. No city officer, employee or member of a board or commission shall, directly or indirectly, coerce, attempt to coerce, command, advise, or solicit a city employee to pay, lend, or contribute anything of value to a party, committee, organization, agency or person for political or electoral purposes. (Ord. No. 7497, §1, 3-13-86)

Secs. 2-7—2-22. Reserved.

ARTICLE II. CITY COUNCIL

DIVISION 1. GENERALLY

Sec. 2-23. Composition.

The city council shall consist of seven (7) members: the mayor and six (6) council members. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-24. Eligibility.

Only registered voters of the city shall be eligible to be elected as council members. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-25. Election, terms, limitations.

(a) The council members shall be nominated and elected at large by the qualified voters of this city.

(b) Nominating Petitions for each candidate shall be filed with the City Clerk and the order of receipt of such petitions shall determine the placement of the names of the candidates on ballot. If more than one candidate appears at the city clerk's office prior to or at 8:00 a.m. on the first day for filing nominating petitions, the names of those candidates will be randomly drawn by the City Clerk to determine placement of the names on the ballot. The names of all other candidates shall appear on the ballot in the order in which the candidates filed petitions for nominations.

(c) At each regular election of the city, council members shall be elected to fill the positions of those whose terms expire and shall be elected for four-year terms. In the event a council member is being elected to replace a council member who vacated office prior to the expiration of such council member's term, however, the elected council member shall serve for the remainder of the unexpired term. If in the same election council members are to be elected to serve full terms and council members are to

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be elected to serve unexpired terms, the person elected who receives the least number of votes shall serve the unexpired term. If more than one council member is to be elected to unexpired terms at such election, then such terms shall be filled in order, with the person elected receiving the least number of votes to serve the shortest term, the person receiving the next least number of votes the next longest term, until all unexpired terms are filled.

(d) There shall be no limit to the number of terms a council member may serve on the city council; provided, however that no person shall be eligible to be elected to more than two (2) consecutive four-year terms as a council member. (Ord. No. 7497, §1, 3-13-86)

(Ord. No. 8778, §§1-2, 12-17-98)

Sec. 2-26. Compensation, expenses.

(a) Council members shall each receive as compensation the sum of two hundred dollars (\$200.00) per month. This provision shall remain in effect unless otherwise changed by ordinance as provided herein.

(b) The city council may from time to time determine the compensation of council members by ordinance, but no increase in such compensation shall become effective until the commencement of the terms of council members elected at the next regular city election held at least six (6) months after the approval of such ordinance, and provided that the compensation of any council member shall not be increased during the term of office of such council member.

(c) In addition to their compensation, council members may receive reimbursement for their actual and necessary expenses incurred in the fulfillment of their office, provided that such expenses are supported by appropriate documentation. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-27. Powers generally.

The city council shall have the care, management and control of the city and its finances, and shall have the power to enact and ordain any and all ordinances that 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. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-28. Powers vested.

All powers of the city shall be vested in the council unless specifically provided otherwise in this Code or the city Charter. The council shall provide for the exercise of these powers and for the performance of all duties and obligations imposed on the city by law. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-29. Prohibitions generally.

(a) *Holding other office.* Except where otherwise authorized by law or pursuant to an agreement between the city and another governmental entity, no member of the city council shall hold any other city office or employment while serving as a member of the city council. No former member of

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the city council shall hold any compensated, appointed city office or employment until one (1) year after the expiration of the term for which such member was elected.

(b) *Appointments removals.* The city council and its members shall not direct the employment or removal of any city employee or officer who is employed or appointed under the authority of the chief administrative officer. Members of the council may express their views to the chief administrative officer regarding any matter pertaining to city employees or officers.

(c) *Interference with administration prohibited.* The city council and its members shall only deal with city employees and officers who are under the direction and supervision of the chief administrative officer through the chief administrative officer. The council and its members shall not give orders to such city employees or officers publicly or privately. Any violation of this prohibition shall be deemed a violation of an express prohibition of city charter section 3.5(b)(ii). (Ord. No. 7497, §1, 3-13-86)

Sec. 2-30. Depositions admitted before council.

Depositions taken under, and governed by, the provisions and rules of law relating to depositions in courts of law may be read on behalf of the city or of any defendant, in any matter pending before the council, in the same manner as in courts of law. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-31. Vacancies, forfeiture of office.

(a) *Vacancies.* The office of a council member shall become vacant upon death, resignation, removal from office in a manner authorized by law, or forfeiture of office.

(b) *Forfeiture of office.* A council member shall forfeit office if such council member:

- (1) Lacks at any time during the term of office any qualification for the office prescribed by this Code or the Charter or law;
- (2) Violates any express prohibition of this Code or the Charter;
- (3) Is convicted of a crime involving moral turpitude or a felony;
- (4) Is in default to the city; or
- (5) Fails to attend three (3) consecutive regular meetings of the council without being excused by the council. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-32. Filling vacancies in office of council members.

A vacancy in the office of council member shall be filled by the council by a majority vote of all its remaining members for a period running to the next regular election unless such period would exceed one (1) year from the date of the vacancy, in which event the council shall provide for a special election to fill such vacancy for the unexpired term. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-33. Judge of qualifications of council members, grounds for forfeiture.

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The council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture. A member charged by the council with conduct constituting grounds for forfeiture of office shall be furnished with a written document from the council setting forth such charges. Such member may demand a public hearing before the council. The council shall have the power to issue subpoenas to compel the testimony of witnesses and the production of evidence, and it may administer oaths. The council shall subpoena such witnesses and evidence as may also be requested by the member whose forfeiture is under review at such hearing. Any person who willfully fails to comply with a subpoena issued hereunder shall be guilty of a misdemeanor subject to penalty as provided by ordinance. Decisions made by the council under this provision shall be subject to review by the appropriate court as provided by law. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-34. Investigations.

The city council may make investigations into the affairs of the city. In the event the council determines to conduct a formal investigation, it may do so only upon the vote of a majority of the council then in office setting forth with particularity the nature of the investigation. In the event the council undertakes a formal investigation, it may conduct hearings, issue subpoenas to compel the testimony of witnesses and production of evidence, and it may administer oaths. All such hearings shall be public. Any person who willfully fails to comply with a subpoena issued hereunder shall be subject to penalty as provided for in section 1-8. (Ord. No. 7497, §1, 3-13-86)

Secs. 2-35—2-43. Reserved.

DIVISION 2. MEETINGS AND RULES OF PROCEDURE

Sec. 2-44. Regular meetings.

The first meeting of the council after each general municipal election shall be held as provided by law. Thereafter, the council shall hold regular monthly meetings at least once each month at such time and place as the council may prescribe by rule. The council may also hold additional regular meetings at such time and place as the council may prescribe by rule. Notice of such regular meetings shall be posted at the city hall.

Sec. 2-45. Meetings generally.

All meetings of the council shall be public meetings unless such meetings may be closed pursuant to law. Unless otherwise provided by law, no action of the council shall take effect unless the motion for action and the vote by which it is disposed of shall take place at proceedings open to the public. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-46. Special and emergency meetings; manner and time for giving notice.

Special or emergency meetings of the council may be called from time to time to be held at the place and at the time designated in the special or emergency call. The mayor may, or at the request of at least three (3) members of the council shall, call a special meeting of the council for a time not earlier than twenty-four (24) hours after notice is given to all members of the council then in the city. Emergency meetings of the council may also be held at any time by the consent of five-sevenths (5/7) of all the members of the council, and such consent may be given either prior to or during the emergency meeting. Notice of special or emergency meetings may be given either in writing or verbally. The notice shall set the time, purpose and general object of the meeting. (Ord. No. 7497, §1, 3-13-86)

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Sec. 2-47. Rules, journals.

The council shall determine its own rules and order of business. It shall cause a journal of its proceedings to be maintained and this journal shall be open to public inspection. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-48. Quorum; absent members.

A majority (four (4) members) of the council shall constitute a quorum for the transaction of business. If at any meeting of the council a quorum is not present, the meeting shall stand adjourned until the next regular, special or emergency meeting; however, any two (2) members of the council may have a call of the council and send for and compel the attendance of any absent member of the council in the manner and subject to the penalties prescribed by the rules of the council. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-49. Calling meeting to order.

At the time prescribed for a meeting of the council, or to which it may have been adjourned, the mayor shall call the members of the council to order and, a quorum being present, shall proceed with the order of business. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-50. Order of business.

At each regular or special meeting of the council, the order of business shall be as follows, unless otherwise provided by motion of the council:

- (1) Roll call of members, announcement of a quorum.
- (2) Proclamations.
- (3) Public hearings.
- (4) Remarks of visitors who have requested time to speak in advance of the meeting. Remarks shall be limited to three (3) minutes on any one subject unless time is extended by the council.
- (5) Review of minutes of previous meeting.
- (6) Old business.
- (7) New business.
- (8) Report of city attorney.
- (9) Report of chief administrative officer.
- (10) Comments by members of the council.

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(Ord. No. 7497, §1, 3-13-86)

Sec. 2-51. Determination of questions of order; parliamentary rules adopted.

The Mayor shall preserve decorum and order, may speak to points of order in preference to other members of the council and shall decide all questions of order, subject to an appeal of the council. If such appeal is seconded, then no other business shall be in order until the question on the appeal is decided. All questions of parliamentary procedure not provided for in this article shall be governed by Robert's Rules of Order. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-52. Manner of stating motions.

The mayor shall propound all questions in the order in which they are moved, unless the subsequent motion shall be previous in its nature; however, in naming sums and fixing times, the largest sum and longest time shall be first put. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-53. Motions which may be made while question is under debate; order of precedence.

(a) When a question is under debate, the Mayor shall receive no motion but:

- (1) To adjourn.
- (2) To lay on the table.
- (3) For the previous question.
- (4) To postpone to a certain time.
- (5) To commit.
- (6) To amend.
- (7) To postpone indefinitely.

(b) The several motions shall have precedence in the order in which they are arranged in subsection (a), and the first three (3) shall be decided without debate.

(Ord. No. 7497, §1, 3-13-86)

Sec. 2-54. Manner of raising the previous question; voting procedure.

The previous question shall be put in the following form, "Shall the main question be now put?," and all further amendments or debate upon the main question shall be suspended until the previous question shall be decided. After the adoption of the previous question, the vote of the council shall forthwith be taken upon all pending amendments in their regular order, and then upon the main question. (Ord. No. 7497, §1, 3-13-86)

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Sec. 2-55. Vote of members required; exceptions.

The mayor and each council member present when a question is put, when not excluded by private interest, shall give their vote, unless the council shall, by vote, excuse a member of the council, but no member shall be permitted to vote on any question or serve on any committee where their private interest is immediately concerned, distinct from that of the public. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-56. Voting.

Voting shall be by roll call except on procedural motions, and the ayes and nays shall be recorded in the journal. Roll call votes shall be taken in the order as prescribed by rule of the council. Except as otherwise required by law, the affirmative vote of a majority of the entire council then in office shall be necessary to adopt any ordinance or resolution. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-57. Motions to reconsider vote; when allowed; who may make motion.

After a vote of the council has been taken upon any question, it shall be in order for any member voting in the majority to move a reconsideration thereof at the same meeting or at the succeeding meeting, unless the subject of the vote shall have passed out of the custody of the council; not more than one (1) motion for the reconsideration of any vote shall be entertained. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-58. When motions shall be reduced to writing.

Each motion shall be reduced to writing if the mayor directs, or if any council member requests it. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-59. Placards and signs.

No person shall bring any sign or placard into City Hall or into the Council Chambers unless such sign or placard is for informational or demonstrative purposes as part of a Public Hearing scheduled on the Council meeting agenda. This prohibition shall not apply to signs or placards related to City sponsored events, activities, proclamations or recognitions. (Ord. No. 9777, §1, 7-3-08)

Secs. 2-60—2-72. Reserved.

DIVISION 3. ORDINANCES

Sec. 2-73. To be introduced as bills; vote required for passage.

No ordinance shall be passed except by bill, and every bill shall be numbered consecutively. No bill shall become an ordinance unless, on its final passage, a majority of the members of the council shall vote therefor, and the ayes and nays be entered on the journal, or as otherwise provided in this article. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-74. Bill to be read; time before passage; emergency ordinances.

(a) Every proposed ordinance shall be read by title in an open council meeting at last twice before final passage, and at least one (1) week shall elapse between its first reading and final passage. A copy of each proposed ordinance shall be provided for each council member at the time, of its introduction, and after it is introduced, copies of such proposed ordinance shall be available for public

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inspection in the office of the city clerk. The council shall provide by its rules the opportunity for persons interested in any proposed ordinance to be heard before the council. If the council adopts an amendment to a proposed ordinance which constitutes a change in substance, the proposed ordinance as amended shall be placed on file for public inspection in the office of the city clerk for one (1) additional week prior to its final passage.

(b) Notwithstanding the foregoing, an ordinance may be passed as an emergency measure on the day of its introduction if necessary for the immediate preservation of the public peace, health or safety and if it contains a declaration describing in clear and specific terms the facts and reasons constituting the emergency and receives the vote of five-sevenths (5/7) of the members of the council. An ordinance granting, reviewing or extending a franchise shall not be passed as an emergency ordinance. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-75. Franchises.

The granting of franchises, the right of regulation, the issuance of temporary, revocable permits, and the effect of any operation beyond the franchise period are set forth in Article IX of the charter. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-76. Not to be revived or reenacted by reference.

No ordinance shall be revived or reenacted by mere reference to the title thereof, but it shall be set forth at length as if it were an original ordinance. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-77. Date of introduction of bill; record.

Whenever any bill shall be introduced in the council, the city clerk shall endorse on the bill the date of its introduction, and shall note in the record the introduction of the bill, stating its number and title. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-78. Amendments to bills; procedure.

All amendments to any bill shall be in writing, and shall be spread upon the record, and if adopted, shall be numbered and attached to the original bill and preserved therewith. If the bill shall pass, the city clerk shall make out a copy thereof, making such changes therein as shall be necessary to show the bill as amended and passed, and the copy, certified by the city clerk, shall be authenticated by the mayor; however, if no amendments or alterations are made in a bill, the original bill may be authenticated. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-79. Form of ordinances.

(a) All ordinances shall have a title indicative of the nature and object thereof, and the enacting clause of all ordinances shall be: "Be It Ordained by the Council of The City of Kirkwood...".

(b) The enacting clause of all ordinances submitted by initiative shall be: "Be It ordained By, the People of The City of Kirkwood...".

(c) No ordinance, except those making appropriations of money and those codifying or revising existing ordinances, shall contain more than one (1) subject, which shall be clearly expressed in its title. An ordinance which appropriates funds may contain subjects relating to such appropriation.

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(Ord. No. 7497, §1, 3-13-86)

Sec. 2-80. Adopted ordinances and resolutions to be consecutively numbered and filed.

The original of each ordinance which has passed by the council, and has become a law as provided in this article, and all resolutions adopted by the council, shall be consecutively numbered, and as soon as practicable after their approval or adoption, shall be filed in consecutive order in the archives of the city, and be kept for convenient reference. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-81. Authentication, recording of ordinances and resolutions; indexing; ordinance book.

All ordinances and resolutions adopted by the council shall be authenticated by the signature of the mayor and city clerk. It shall be the duty of the city clerk, as soon as practicable after the adjournment of any meeting of the council, to see that the original ordinances and resolutions passed at the meeting are filed as provided in this division, and the city clerk shall make a written index of the subject of each ordinance or resolution, its number and date of passage or of its becoming a law. The city clerk shall keep the originals of all ordinances and resolutions in a volume kept for that purpose, and the city clerk shall preserve the volume, properly bound, safely in the city offices. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-82. Effective date of ordinances.

Every adopted ordinance subject to referendum shall become effective at the expiration of thirty (30) days after adoption or at any later date specified in such ordinance. All other ordinances shall become effective upon adoption or at any later date specified in the ordinance. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-83. Revision of ordinances.

All ordinances and resolutions of the city of a general and permanent nature shall be codified and promulgated according to a system of continuous numbering and revision as specified by ordinance. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-84. Initiative, referendum.

The registered voters of the city shall have the initiative power and the referendum power as set forth and regulated by Article VIII of the city Charter. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-85. Proof of ordinance.

Any ordinance may be proved by a copy thereof certified by the city clerk under the seal of the city, or when printed and published by authority of the city. It shall be received in evidence in all courts, or other places, without further proof of authenticity. (Ord. No. 7497, §1, 3-13-86)

Secs. 2-86—2-102. Reserved.

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ARTICLE III. MAYOR

DIVISION 1. GENERALLY

Sec. 2-103. Eligibility.

Only registered voters of the city shall be eligible to be elected to the office of mayor. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-104. Election and term.

The mayor shall be elected at regular elections of the city for a term of four (4) years. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-105. Member of council.

The mayor shall be a voting member of the city council. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-106. Limitation on terms.

There shall be no limit to the number of times a person may serve as mayor; provided, however, that no person shall be eligible to be elected to more than two (2) consecutive four-year terms as mayor. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-107. Compensation and expenses.

(a) The first mayor elected hereunder shall receive as compensation the sum of three hundred dollars (\$300.00) per month.

This provision shall remain in effect unless otherwise changed by ordinance as provided herein.

(b) After the first council election hereunder, the council may from time to time determine the compensation of the mayor by ordinance, but no increase in such compensation shall become effective until the commencement of the term of the mayor elected at the next regular city election held at least six (6) months after the approval of such ordinance.

(c) In addition to compensation, the mayor may receive reimbursement for actual and necessary expenses incurred in the fulfillment of that office, provided that such expenses are supported by appropriate documentation.

(Ord. No. 7497, §1, 3-13-86)

Sec. 2-108. Additional duties.

In addition to being a member of the city council the mayor shall:

- (1) Preside as chairman of meetings of the city council.
- (2) Call special meetings of the city council as provided by the city Charter or this Code.

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- (3) Be deemed the head of city government for legal, ceremonial and military purposes.
- (4) Execute all bills, resolutions, contracts and documents on behalf of the city.
- (5) Preside as chairman when the council reviews the performance of the chief administrative officer.
- (6) Place in nomination for consideration of the city council nominees for the positions of, the city attorney, municipal judge, city clerk, and members of all boards, commissions and committees of the city. The council, by ordinance, may also provide for such nominations to be made by its other members.
- (7) Have the authority to request written reports and opinions from the city attorney. The council, by ordinance or resolution, may also provide that written reports or opinions may be requested by its other members, by the council as a whole or by the chief administrative officer.
- (8) Have the authority to request written reports and recommendations from the presiding officer of each board, commission and committee of the city under the jurisdiction of the city council, with the advice and consent of the council.
- (9) Appoint the provisional municipal judge as provided by the city Charter.
- (10) Have the power to administer oaths to witnesses summoned before the council to testify in relation to any subject under consideration in which the interests of the city are involved.

(Ord. No. 7497, §1, 3-13-86)

Sec. 2-109. Vacancy; forfeiture of office.

The office of mayor shall become vacant upon death, resignation, removal from office in a manner authorized by law, or forfeiture of office. A mayor shall forfeit office if such mayor:

- (1) Lacks at any time during the term of office any qualification for the office prescribed by the Code, the Charter or by law;
- (2) Violates any express prohibition of the city Code or the Charter;
- (3) Is convicted of a crime involving moral turpitude or a felony;
- (4) Is in default to the city; or
- (5) Fails to attend three (3) consecutive regular meetings of the council without being excused by the council.

(Ord. No. 7497, §1, 3-13-86)

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Sec. 2-110. Filling vacancy in office of mayor.

In the event the office of mayor shall become vacant, the deputy mayor shall serve as acting mayor until the next regular city election unless such period would exceed one (1) year from the date of the vacancy, in which event the council shall provide for a special election to fill such vacancy for the unexpired term. (Ord. No. 7497, §1, 3-13-86)

Secs. 2-111—2-120. Reserved.

DIVISION 2. DEPUTY MAYOR

Sec. 2-121. Election by council; terms.

(a) The city council shall select from its members a deputy mayor who shall act as mayor in the event the office of mayor becomes vacant or in the event the mayor shall be unable to perform due to absence or disability.

(b) The city council shall elect from its members a deputy mayor at the first regular meeting following each regular city election.

(c) The term of the deputy mayor shall be two (2) years.

(d) There shall be no limit to the number of terms a council member may serve as deputy mayor.

(Ord. No. 7497, §1, 3-13-86; Ord. No. 7590, §§ 1—3, 11-20-86)

Editor's note—Ordinance No. 7590, adopted Nov. 20, 1986, did not specifically amend the Code; hence codification of §§ 1-3 of the ordinance subsections (b—d), amending § 2-121, was at the discretion of the editor. Section 4 of the ordinance was codified as § 2-122(a); see the note following § 2-122.

Sec. 2-122. Standing order of succession to deputy mayor in event of emergency, disaster or imminent need.

(a) *Generally.* In the event the deputy mayor is unable to serve as acting mayor, the member who shall serve as acting mayor shall be determined by the order of succession provided by resolution under the ordinance providing for the order of succession to the deputy mayor in manmade and natural disasters, Ordinance No. 7578 (section 2-122(b) through (d)).

(b) *Council to set forth names of council members by tenure.* The council shall promptly, upon passage of this section, adopt a resolution setting forth the names of council members in descending order of continuous tenure on the city council.

(c) *Determination of order of succession.* In the event the tenure of any council members is identical, then the position on such list shall be determined by the number of votes which that council member shall have received at the most recent time at which they have stood for election. The council member receiving the greatest number of votes shall appear higher in the order of succession, given equal continuous tenure.

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(d) *Unavailability of mayor, deputy mayor; designation of individuals pursuant to section provisions.* In the event of an emergency, disaster, or imminent need in which neither the mayor nor the designated deputy mayor is available to carry out legislative responsibilities due to travel, incapacity or physical separation from the city, the designation of individuals pursuant to this section and as specifically outlined in subsequent resolutions, shall prevail as to the order of succession.

(Ord. No. 7578, §§ 1-3, 10-16-86; Ord. No. 7590, §4, 11-20-86)

Editor's note—Section 2-122 derives from two nonamendatory ordinances: Ord. No. 7578, §§ 1-3, enacted Oct. 16, 1986, and Ord. No. 7590, § 4, enacted Nov. 20, 1986. At the editor's discretion, the substantive provisions of such ordinances were codified as § 2-122(b—d) and 2-122(a), respectively.

Secs. 2-123—2-125. Reserved.

ARTICLE IV. OTHER OFFICIALS

DIVISION 1. GENERALLY

Sec. 2-126. Election by the council; removal generally.

The city council shall, at its first meeting or as soon thereafter as possible, appoint by a majority vote the following officers; a chief administrative officer; a city attorney, a municipal judge and a city clerk. Such officers may be removed from office at any time by a vote of a majority of the members of the council, except as otherwise provided by this Code, other city ordinance or by the laws of the state. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-127. Vacation of office.

Any officer of the city who shall leave the city with the intention of residing outside the city shall thereby vacate his office, and thereupon the proceedings provided for in case of a vacancy shall be had. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-128. Term of office of appointive officers.

All officers appointed by the city council serve at the will of the council, and not by virtue of any right unless otherwise provided by law. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-129. Use of city property prohibited.

All officers of the city charged with the custody of moneys, bonds and obligations, and other property belonging to the city, are expressly prohibited from using such property, directly or indirectly, for their own profit or benefit, under penalty of immediate removal from office and other punishment provided by law for such offenses. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-130. Removal from office; grounds.

Any officer of the city who shall refuse or willfully fail or neglect to perform any duty enjoined upon him by law or ordinance, or who shall, in the discharge of his official duties, be guilty of any fraud,

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extortion, oppression, favoritism, partiality, or willful wrong or injustice, shall be removed from office. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-131. Monthly fiscal reports; when required; contents.

It shall be the duty of all officers of the city charged with the collection, disbursement or custody of city revenue, from whom annual reports are required, to submit monthly reports to the chief administrative officer. The monthly reports shall embrace a full statement of the monthly receipts and expenditures of their respective offices, and such other matters as may be required by this Code or any other city ordinance, resolution or otherwise, for the preceding fiscal year. (Ord. No. 7497, §1, 3-13-86)

Secs. 2-132—2-146. Reserved.

DIVISION 2. QUALIFICATIONS

Sec. 2-147. Commission required.

No person shall perform the duties of an office of the city to which he is elected or appointed until commissioned as provided in this division. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-148. Bonds—When required generally; amount, terms and conditions; impaired sureties.

(a) All officers and employees of the city from whom a bond is required by law or ordinance shall, within fifteen (15) days after their appointment or election and before entering upon the discharge of the duties of their office, give a bond to the city in the sum of two thousand five hundred dollars (\$2,500.00) which may be a blanket position surety bond except as otherwise provided by law.

(b) Whenever any surety of any officer of the city shall die or become insolvent, or the city council shall have reason to believe the sureties on the bond of an officer are likely to or have become insufficient, the council shall require the officer, at a time to be appointed by the council, to show cause why a new bond shall not be given. Unless cause is shown, the officer shall be required to enter into a new bond within twenty (20) days. Failure to enter into a new bond within the twenty (20) days shall make the office vacant.

(Ord. No. 7497, §1, 3-13-86)

Sec. 2-149. Same—Filing of oath; issuance; term of commission.

The oath and bond required, when executed and approved, shall be filed with the city clerk and thereupon the city clerk shall deliver to the person elected or appointed, a commission in the name of, and signed by, the mayor and under the seal of the city, authorizing and empowering such person to discharge the duties of the office until their successor shall have been duly elected or appointed and commissioned. (Ord. No. 7497, §1,3-13-86)

Sec. 2-150. Same-Approval and execution; substitution of sureties for impaired sureties; effect of failure to substitute.

(a) The city council shall approve all bonds to the city, except as may be otherwise provided by this Code or other city ordinance. The mayor shall execute all bonds which by law, this Code or other city ordinance are required to be executed by the city.

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(b) The city council shall have the power whenever, in its judgment, any bond held by the city from any person has become or is likely to become impaired through any cause whatsoever, to require the principal of the bond, at a time to be appointed by the council, to show cause why a new bond shall not be given. Unless cause shall be shown, the principal shall be required to enter into a new bond within twenty (20) days. In default thereof, the city shall have the right to declare a forfeiture of all the rights and privileges granted by the city under the provisions of this Code or other city ordinance or contract of which the bond forms a part.

(Ord. No. 7497, §1, 3-13-86)

Secs. 2-151—2-165. Reserved.

DIVISION 3. CHIEF ADMINISTRATIVE OFFICER

Sec. 2-166. Appointment.

The council shall appoint a chief administrative officer for an indefinite term and shall fix the compensation and conditions of employment for such office. The chief administrative officer shall be appointed solely on the basis of such person's executive and administrative qualifications. The chief administrative officer need not be a resident of the city or state at the time of appointment but must become a resident of the city within the first year of such appointment unless such time is extended by the council. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-167. Evaluation.

At least once each year after the appointment of the chief administrative officer, the city council shall evaluate the performance of the chief administrative officer and the results thereof shall be made a part of the confidential personnel file of the chief administrative officer. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-168. Removal from office; procedure.

The city council may remove the chief administrative officer with or without cause from office in accordance with the following procedures:

- (1) The council shall adopt by an affirmative vote of a majority of all of its members a preliminary resolution which must state the reasons, if any, for removal and upon adoption of such resolution may suspend the chief administrative officer from duty for a period not to exceed forty-five (45) days. A copy of the resolution shall be delivered promptly to the chief administrative officer.
- (2) Within five (5) days after a copy of the resolution is delivered to the chief administrative officer, the chief administrative officer may file with the council a written request for a public hearing. This hearing shall be held at a council meeting not earlier than twenty (20) days nor later than thirty (30) days after the request is made. The chief administrative officer may file with the council a written reply not later than five (5) days before the hearing.
- (3) The council may adopt a final resolution of removal, which may be made effective immediately by affirmative vote of a majority of all of its members at any time after five

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(5) days from the date when a copy of the resolution was delivered to the chief administrative officer in the event a public hearing has not been requested, or at any time after the public hearing has been completed, if one has been requested. The chief administrative officer shall continue to receive compensation until the effective date of a final resolution of removal. Since the chief administrative officer serves at the will of the council, and not by virtue of any right, the action of the council in suspending or removing the chief administrative officer shall not be subject to review by any court or agency.

(Ord. No. 7497, §1, 3-13-86)

Sec. 2-169. Acting chief administrative officer.

By letter filed with the city clerk, the chief administrative officer shall designate a qualified person to exercise the powers and perform the duties of the chief administrative officer during the temporary absence or disability of the chief administrative officer. During such absence or disability, the council may revoke such designation at any time and appoint another qualified person to serve. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-170. Powers and duties of chief administrative officer.

The chief administrative officer shall be responsible to the council for the administration of all city operations placed in the charge of the chief administrative officer by or under the city Charter. The chief administrative officer shall:

- (1) Appoint and, when deemed necessary for the good of the city, suspend or remove all city employees and appointed administrative officers provided for, by or under the Charter, except the city attorney, the city clerk, the municipal judge and the provisional municipal judge, or except as otherwise provided by law, the Charter, or personnel rules adopted previously by the council or adopted pursuant to the Charter. The chief administrative officer may authorize any administrative officer who is subject to direction and supervision of the chief administrative officer to exercise these powers with respect to subordinates in that officer's department.
- (2) Direct and supervise the administration of all departments of the city except the city attorney, city clerk and municipal judge, and except as otherwise provided by the Charter or by law.
- (3) Attend all meetings of the council and committees of its members, except when the council may be considering personnel matters relating to the chief administrative officer. The chief administrative officer shall have the right to take part in discussions in meetings of the city council but shall have no power to vote. The chief administrative officer shall receive notice of all meetings.
- (4) Provide that all laws, provisions of the Charter and acts of the council subject to enforcement by the chief administrative officer or by officers subject to the direction and supervision of the chief administrative officer are faithfully executed.
- (5) Supervise and be responsible for the preparation of the annual budget and capital program and submit both to the council.

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- (6) Submit to the council and make available to the public the complete report of the finances and administrative activities of the city as of the end of each fiscal year.
- (7) Keep the council fully informed so that the council shall properly execute their legislative and policy-making functions and make such other reports as the council may require concerning the operations of the city departments, offices and agencies subject to the direction and supervision of the chief administrative officer.
- (8) Prepare and submit to the council a statement of policy recommendations for programs and priorities which, in the opinion of the chief administrative officer, should be considered by the council. This statement shall be submitted not less than one hundred eighty (180) days prior to the end of the fiscal year.
- (9) Facilitate the prompt, economical and efficient dispatch of city business, and to that end may from time to time organize or reorganize work within or among departments responsible to the chief administrative officer, and assign assistants, deputies and employees from any office or department of the city government under direction of the chief administrative officer to perform work or service in connection with any other office or department, or to work in more than one (1) of such offices or departments.
- (10) Keep the council fully advised on the financial condition and future needs of the city and make such other recommendations to the council concerning the affairs of the city as is deemed advisable.
- (11) Perform such other duties as may be prescribed by the Charter or required by the council consistent with the Charter.

(Ord. No. 7497, §1, 3-13-86)

Secs. 2-171—2-180. Reserved.

DIVISION 4. CITY CLERK

Sec. 2-181. Appointment; term.

The council shall appoint a suitable person as city clerk at its first regular meeting after the general election or as soon thereafter as possible. The council may appoint a city clerk any time such position shall be vacant. The city clerk shall serve at the pleasure of the council. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-182. Qualifications.

The city clerk shall be at least twenty-one (21) years of age and shall satisfy all of the qualifications that may be imposed upon such office from time to time by state law, and such person shall devote full time to the duties of the office. (Ord. No. 7497, §1, 3-13-86; Ord. No. 7785, §1, 7-21-85)

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Sec. 2-183. Compensation.

The city clerk shall receive compensation for services rendered at the salary established from time to time by the council. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-184. Duties generally.

The city clerk shall:

- (1) Perform all duties imposed upon such office by the laws of the State of Missouri, the city Charter, the ordinances of the city, and such other duties as may be imposed by the council consistent with such laws and ordinances.
- (2) Attend all regular and special meetings of the council and keep minutes of the proceedings and the journal of such proceedings.
- (3) Conduct all city elections or the appropriate part thereof when an election is being conducted jointly with St. Louis County.
- (4) Authenticate by signature of the city clerk and record all ordinances, resolutions and proclamations passed by the council and serve as custodian of such ordinances, resolutions and proclamations.
- (5) Affix the official seal of the city to and attest to all public instruments and contracts.
- (6) Furnish to the city attorney all papers, records and documents required in the discharge of the duties of the city attorney.
- (7) Administer oaths.
- (8) Arrange for the publication of legal notices of hearings and the proper notification of affected property owners with respect to the subject matter of such hearings.
- (9) Prepare all resolutions and proclamations with the assistance of the city attorney.
- (10) Prepare the city council agenda for every council meeting according to council direction and make it available to the council and public at least twenty-four (24) hours prior to each meeting, except in the case of emergency meetings.

(Ord. No. 7497, §1, 3-13-86)

Sec. 2-185. Direction and supervision.

The city clerk shall at all times be subject to the direction and supervision of the city council. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-186. Removal from office.

The city clerk may be removed from office at any time with or without cause by the city council. (Ord. No. 7497, §1, 3-13-86)

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Sec. 2-187. Title of position.

The title of the position described herein shall always be referred to with the full title of "City Clerk." (Ord. No. 7497, §1, 3-13-86)

Secs. 2-188—2-202. Reserved.

DIVISION 5. CITY COMPTROLLER

Sec. 2-203. Description of office.

The office of city comptroller is described in Division 2 of Article V. (Ord. No. 7497, §1, 3-13-86)

Secs. 2-204—2-211. Reserved.

DIVISION 6. CITY TREASURER

Sec. 2-212. Description of office.

The office of city treasurer is described in Division 3 of Article V. (Ord. No. 7497, §1, 3-13-86)

Secs. 2-213—2-220. Reserved.

DIVISION 7. MUNICIPAL JUDGE*

Sec. 2-221. Appointment; qualifications.

The council shall appoint an officer who shall have the title of municipal judge. The municipal judge shall be appointed for a term of two (2) years unless otherwise provided by law. The person appointed to such position must have the following qualifications:

- (1) Licensed to practice in the state.
- (2) A resident of the city.
- (3) At least twenty-one (21) years of age and under the age of seventy-five (75) years during the term of appointment.
- (4) Not otherwise an officer or employee of the city.

(Ord. No. 7497, §1, 3-13-86)

***Editor's note**—Chapter 15, Municipal Court, also contains provisions pertaining to the municipal judge. In the event of conflict between the provisions in Ch. 15 and those in this division, presumably the latter provisions shall prevail.

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Sec. 2-222. Powers, duties.

The municipal judge shall have such powers and duties as are conferred upon such officers by the laws of the state. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-223. Provisional municipal judge.

The mayor shall appoint a person to the position of provisional municipal judge who shall have the same qualifications as the municipal judge. The provisional municipal judge shall serve as municipal judge in the event the municipal judge is unable to perform such duties of office due to absence, illness or disqualification to hear certain matters. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-224. Compensation.

The council shall, by ordinance, fix the compensation of the municipal judge and provisional municipal judge. (Ord. No. 7497, §1, 3-13-86)

Secs. 2-225—2-227. Reserved.

DIVISION 8. CITY ATTORNEY

Sec. 2-228. Appointment; term.

The city council shall, at its first meeting after the general city election or as soon thereafter as practical, elect by a majority vote a city attorney for the city, who shall hold office at the pleasure of the council. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-229. Qualifications.

The city attorney shall be a resident of the city and licensed to practice law in the state. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-230. Duties.

The duties of the city attorney shall include, but are not limited to, the following:

- (1) To appoint, with the consent of the city council, and to direct and supervise assistant city attorneys and prosecuting attorneys.
- (2) To prosecute or defend before the mayor, the municipal judge or any magistrate, all actions brought by or against the city, and all actions brought by or against any officer of the city on account of his official acts or in the discharge of the duties of his office.
- (3) To prosecute or defend all suits or actions that may be brought by or against the city in any court of record or before any commission or board, including the public service commission of the state.
- (4) To prosecute or defend in any court, or before any commission or board, all such suits or actions as may be appealed from the mayor, the municipal judge, a magistrate, the circuit court, or a commission or board.

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- (5) To prosecute appeals on behalf of the city from any court, commission or board, and to make the necessary affidavits therefor.
- (6) To advise the council, city boards and the city officers in all matters pertaining to the affairs of the city, and for that purpose, the city attorney shall attend all meetings of the council. Upon request of the mayor or any member of the council, the city attorney shall make written reports and offer written opinions. In addition, the city attorney shall orally advise and respond to all council members and those city employees designated by the chief administrative officer concerning legal questions and matters.

(Ord. No. 7497, §1, 3-13-86; Ord. No. 7548, §1, 7-3-86)

Sec. 2-231. Assistant city attorneys; appointment.

The city attorney may appoint assistant city attorneys with the approval of the city council. The assistant city attorneys shall report to the city attorney and shall handle such matters as may be assigned by the city attorney. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-232. City prosecutor, assistant prosecutors; appointment.

The city prosecutor shall be appointed by the city attorney with the approval of the city council. The city prosecutor shall prosecute all cases pending before the municipal judge of the city, shall prosecute all appeals from matters heard in the municipal court, and shall perform such other legal services as may be assigned by the city attorney. The city attorney may appoint assistant city prosecutors with the approval of the city council. The assistant prosecuting attorneys shall have all of the authority vested by law in the prosecuting attorney. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-233. Compensation.

The city attorney, assistant city attorneys and the city prosecutor shall receive such compensation for their services as the city council shall from time to time determine. Such compensation may be provided by fees and may be paid directly to such officers or to a law firm or firms of which they are members or employees. (Ord. No. 7497, §1, 3-13-86)

Secs. 2-234—2-249. Reserved.

DIVISION 9. CITY ENGINEER

Sec. 2-250. Appointment; qualifications; term of office.

The chief administrative officer shall appoint some suitable person as city engineer who shall also serve as the director of public works. The title of the position described herein shall be referred to interchangeably as director of public works or city engineer. The city engineer shall be a registered professional engineer in the state. The city engineer shall hold office at the pleasure of the chief administrative officer and shall not be under the classified civil service. (Ord. No. 7497, §1, 3-13-86)

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Sec. 2-251. Oath.

The city engineer shall take the oath of office required by other city officers, with the addition that the city engineer is neither concerned nor interested, nor will the city engineer be concerned or interested, in any contract made with the city, or in the furnishing of material for public work of any character in the city. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-252. Duties generally.

(a) The city engineer shall devote his entire time to the discharge of the duties of his office.

(b) The city engineer shall, when requested by the chief administrative officer, make out and submit plans and evaluations, estimates and specifications for any public work which may be proposed or ordered by the council or chief administrative officer, and shall do and perform all required engineering work for the city, and shall do such other surveying and engineering work as may be required by the city, by direction of the chief administrative officer or as required by law, this Code or other city ordinance, and all other lawful acts within the contemplation of the office of city engineer as shall relate to the matters placed particularly under the city engineer's charge, and which may be necessary for the efficient working of the department of the city engineer. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-253. Engineering services for city-owned utilities systems; records.

The city engineer shall provide engineering services to the electric system, water system and sanitation system under the direction of the chief administrative officer; the city engineer shall make such reports and keep such records in connection with this function as may be required from time to time by the chief administrative officer. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-254. Custody of documents and records.

The city engineer shall keep and preserve in the office of the city engineer all maps, plats, plans, surveys, records, books, specifications, papers and all other documents connected with or relating to the business of the department of the city engineer, and the documents shall be subject to the examination of any person seeking information therefrom, under such regulations as the council may prescribe, and the documents shall be and remain the sole property of the city. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-255. Employment of inspectors in emergency situations.

The city engineer, with the approval of the chief administrative officer, shall have the power to employ in emergency such inspectors as the public service may require, and the city engineer shall certify their accounts to the chief administrative officer specifying to what fund each amount is properly chargeable. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-256. Compensation.

The city engineer shall receive compensation for services rendered at the salary established from time to time by the city council. (Ord. No. 7497, §1, 3-13-86)

Secs. 2-257—2-270. Reserved.

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DIVISION 10. BUILDING COMMISSIONER

Sec. 2-271. Conditions of employment.

The building commissioner shall serve under the supervision of the public works director, in accordance with personnel rules and regulations established by the city council. (Ord. No. 7497, §1, 3-13-86)

Secs. 2-272—2-283. Reserved.

DIVISION 11. HEALTH COMMISSIONER

Sec. 2-284. Responsibilities.

The responsibilities and duties assigned by this Code to the city health commissioner shall be performed by the city engineer or his designee. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-285. Administration of public health and sanitation; powers and authority.

The health commissioner shall, in addition to those duties set forth elsewhere in this Code, have the charge of the administration of public health and sanitation in the city, and to that end is vested with the power and authority:

- (1) To see that the laws and ordinances of the state, the county, and the city relating to public health and sanitation are observed and enforced.
- (2) To establish and maintain such activities and clinics as are needed to promote the public health of the city, including, but not limited to:
 - a. Control of communicable diseases.
 - b. Control of rodents and mosquitoes.
 - c. Control of cats, dogs, chickens and all other animals, including regulations relative to rabies.
 - d. Control of public health nuisances.
 - e. Control of milk and food sanitation.
- (3) To perform such other duties with reference to public health and sanitation as the city council may from time to time prescribe.

(Ord. No. 7497, §1, 3-13-86)

Secs. 2-286—2-294. Reserved.

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ARTICLE V. FISCAL MANAGEMENT

DIVISION 1. GENERALLY

Sec. 2-295. Fiscal year.

The fiscal year of the city shall begin with the first day of April and end on the last day of the succeeding March, unless otherwise provided by city ordinance. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-296. Official bonds.

All officers and employees of the city who receive, disburse, or are responsible for city funds, and such other officers and employees as the council by ordinance may designate, shall, within such time after election or appointment as may be fixed by ordinance, and before entering upon the discharge of their duties, give bond to the city in such sums and with such sureties as shall be prescribed by ordinance, and subject to approval by the council, conditioned upon the faithful and proper performance of their duties and for the prompt accounting for and paying over to the city of all moneys belonging to the city that may come into their hands. The city shall pay the premiums on all such bonds. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-297. Disbursal of city funds.

(a) All requests for payment of city expenditures shall be approved by the chief administrative officer or an individual so designated by the chief administrative officer before any payment shall be made. No expenditure shall be approved unless funds for such expenditure have been appropriated by the council.

(b) All orders for the payment of city funds from city depositories shall be executed by any two (2) of the following: the chief administrative officer, the city comptroller and/or the city clerk. Facsimile signatures may be used, in accordance with procedures established by the city comptroller and approved by the chief administrative officer.

(c) No officer or employee of the city shall enter into any undertaking on behalf of the city without specific approval from the city council.

(Ord. No. 7497, §1, 3-13-86)

Sec. 2-298. City funds enumerated.

The separate funds of the city shall be the city revenue fund, the sinking fund, and such other funds as the city council shall from time to time create and establish. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-299. Administration of funds and obligations.

(a) *Payments.* No payment shall be made from city funds until the city employee, so designated by ordinance, certifies that there has been an appropriation therefor and that sufficient funds remain of such appropriation to cover such payment.

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(b) *Obligations:*

- (1) Current. No obligation to pay funds may be incurred by the city except as required by the Charter or in accordance with procedures established by the city council. No other obligation of the city may be undertaken unless approved by the city council. No ordinance undertaking any obligation to pay funds may be finally approved until the city employee, so designated by ordinance, certifies that sufficient funds have been appropriated or are appropriated by such ordinance to satisfy such obligation.
- (2) Future. Obligations to pay funds beyond the end of the fiscal year in which the obligation is incurred may be undertaken if:
 - a. Such obligations are to be satisfied from revenues obtained by the issuance of bonds.
 - b. Such obligations constitute a lease or similar agreement which by its terms provides for the termination of any obligation extending beyond the current fiscal year if funds are not appropriated in the following year and sufficient funds have been appropriated to satisfy the city's obligation upon such termination.
 - c. Such obligations are authorized by state law then in effect.

(Ord. No. 7497, §1, 3-13-86)

Sec. 2-300. Contracts with depositories for city funds.

Before the appointment of any depository of city funds shall become effective, the depository shall accept as a binding contract between itself and the city all of the provisions of Chapter 95 of the Revised Statutes of Missouri relating to depositories of city funds. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-301. Disposition of interest earned by city.

(a) The city comptroller shall credit all interest income received from all city deposits except sinking funds in the various city funds.

(b) The city comptroller shall place to the credit of the sinking fund all interest received on bonds and on daily balances of the sinking funds. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-302. Quarterly and annual financial statements; annual audit.

(a) Each three (3) months the chief administrative officer shall print in pamphlet form a detailed itemized statement of receipts and expenses of the city and a summary of its proceedings during the preceding three (3) months, and furnish printed copies to the city library and persons who apply for a copy at the office of the city clerk.

(b) At the end of each year, the city council shall cause a complete examination of all the books and accounts of the city to be made by an independent certified public accountant or firm of such accountants and shall publish the results of the examination in the manner prescribed in subsection (a) for publication of statements of quarterly expenditures.

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(Ord. No. 7497, §1, 3-13-86)

Sec. 2-303. Report on property assessments.

The city comptroller, after receiving from the county clerk the certified abstract of the county clerk assessment books of real and personal property within the city, shall present to the city council the following information:

- (1) The assessed valuation by category of real, personal and other tangible property within the city for the fiscal year for which the tax is to be levied;
- (2) The assessed valuation by category of real, personal and other tangible property within the city for the preceding taxable year; and
- (3) The amount of revenue required to be provided from the property tax as set forth in the annual budget adopted by the city council as provided subsequently in this Code, and the tax rate proposed to be set.

(Ord. No. 7497, §1, 3-13-86)

Sec. 2-304. Sale of bonds.

The city shall be authorized to sell any bonds as may now or hereafter be authorized by law. Bonds sold by the city may be sold at private or public sale as authorized by law. In the event such bonds are to be sold at public sale, the same shall be sold upon sealed proposals after reasonable notice has been given as provided by ordinance or otherwise by law. Any public sale shall be conducted according to the terms and conditions provided by ordinance.

(Ord. No. 7497, §1, 3-13-86)

Sec. 2-305. Budget—Submission, message.

At least sixty (60) days prior to the end of each fiscal year, the chief administrative officer shall submit to the council a city budget and an accompanying budget message. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-306. Same—Contents.

(a) The budget shall provide a complete financial plan of all city funds and activities for the ensuing fiscal year and, except as required by law or the city Charter, shall be in such form as the chief administrative officer deems desirable or the council may require by resolution or ordinance. The budget shall indicate in separate sections:

- (1) Proposed expenditures for current operations during the ensuing fiscal year and the method of financing such expenditures;
- (2) Proposed capital expenditures during the ensuing fiscal year and the proposed method of financing each such capital expenditure; and

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- (3) Anticipated net surplus or deficit for the ensuing fiscal year of each utility owned or operated by the city and the proposed method of its disposition; subsidiary budgets for each such utility giving detailed income and expenditure information shall be attached as appendices to the budget.

(b) In no event shall the total proposed expenditures for any fund defined by the city ordinance exceed the estimated revenues to be received, plus any unencumbered balance from the previous fiscal year, or less any deficit estimated for the beginning of the fiscal year. 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.

(Ord. No. 7497, §1, 3-13-86)

Sec. 2-307. Same—Council action, notice and hearing.

The council shall publish in one or more newspapers of general circulation in the city a general summary of the budget and a notice stating:

- (1) The times and places where copies of the message and budget are available for inspection by the public; and
- (2) The time and place, not less than two (2) weeks after such publication, for a public hearing on the budget.

(Ord. No. 7497, §1, 3-13-86)

Sec. 2-308. Same—Amendment before adoption.

After the public hearing, the city council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditure to an amount greater than the total of estimated revenues and unencumbered balance from any previous fiscal year.
(Ord. No. 7497, §1, 3-13-86)

Sec. 2-309. Same—Adoption; procedure upon failure to adopt.

The council shall adopt the budget for the next fiscal year on or before the last day of the fiscal year currently ending. If the council fails to adopt the budget by this date, the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month to month basis, with all items in it prorated accordingly, until such time as the council adopts a budget for the ensuing fiscal year. Adoption of the budget shall constitute appropriations of the amounts specified therein for expenditure from the funds indicated. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-310. Capital program.

(a) *Submission to council.* The chief administrative officer shall prepare and submit to the city council a capital program for a minimum of three (3) years at least four (4) months prior to the final date for submission of the budget.

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- (b) *Program requirements.* The capital program shall include:
 - (1) A clear general summary of its contents;
 - (2) A list of all capital improvements which are proposed to be undertaken with appropriate supporting information as to the necessity for such improvements;
 - (3) Cost estimates, method of financing and recommended time schedule for each such improvement; and
 - (4) The estimated annual cost of operating and maintaining facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements pending or in progress.

(Ord. No. 7497, §1, 3-13-86)

Sec. 2-311. Council action on capital program.

(a) *Notice and hearing.* The city council shall publish in one (1) or more newspapers of general circulation in the city a general summary of the capital program and a notice stating:

- (1) The times and places where copies of the capital program are available for inspection by the public; and
- (2) The time and place, not less than two (2) weeks after such publication, for a public hearing on the capital program.

(b) *Adoption.* The city council, by resolution, shall adopt the capital program with or without amendment after the public hearing and on or before the last day of the current fiscal year.

(Ord. No. 7497, §1, 3-13-86)

Sec. 2-312. Public records.

Copies of the budget and the capital program as adopted shall be public records and shall be made available to the public at suitable places in the city. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-313. Appropriations.

(a) *Supplemental appropriations.* If during the fiscal year the chief administrative officer certifies that there are available for appropriation current revenues in excess of those estimated in the budget, or an unencumbered balance from the previous fiscal year in excess of the amount estimated in the budget, or the requirement for additional expenditures not anticipated in the budget, the council, by ordinance, may make supplemental appropriations for the year up to the amount permitted by law and the city Charter.

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(b) *Reduction of appropriations.* If at any time during the fiscal year it appears probable to the chief administrative officer that the revenues available will be insufficient to meet the amount appropriated, it shall be reported to the council without delay. The chief administrative officer shall indicate the estimated amount of the deficit, any remedial action taken and recommendations as to any other steps to be taken. The council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may, by ordinance, reduce appropriations.

(c) *Transfer of appropriations:*

(1) Administrative transfer

a. The chief administrative officer may authorize a transfer not exceeding \$10,000 of any unencumbered appropriation balance from one account or department within the same fund to another, provided no such administrative transfer shall be made;

1. between funds of the city
2. between any salary account or salary related account and any other account

(2) Legislative transfer

a. The City Council may, by ordinance, reduce or increase the appropriations to any account during the fiscal year by transferring such appropriation from one account to another between funds, provided at no time shall the total appropriations exceed any limit imposed by the City Charter or State law.

(d) *Emergency appropriations, effective date.* The supplemental appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption if made by emergency ordinance in accordance with the provisions of section 3.9(f) of the city Charter.

(Ord. No. 7497, §1, 3-13-86; Ord. No. 8525, §1, 8-1-96)

Sec. 2-314. Tax rates and tax rolls.

The city council shall, by ordinance, set the tax rate and levy on the various classes of property as soon as practicable after passage of the ordinance approving the budget, but no later than August 15 of each year or as otherwise provided by law. No ordinance setting such tax rates and levy shall be so adopted until there has been a public hearing on the proposed ordinance. Notice of such public hearing shall be published as provided by ordinance. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-315. Public hearing on proposed tax rates; notice, contents.

The city council shall hold at least one (1) public hearing on the proposed rates of taxes at which citizens may be heard. Such hearing must be held prior to the adoption of a tax rate by the council. The city clerk shall cause a notice of such public hearing to be published in at least one (1) newspaper qualified under the laws of the state, of general circulation in St. Louis County, which notice shall state the time, date and place of such-hearing. Notice shall also be posted in at least three (3) public places

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within the city. These notices shall be published and posted at least seven (7) days prior to the date of the hearing. The notices provided for herein shall contain that information described in items (1), (2) and (3) in the section 2-303. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-316. Establishment of tax rate.

Following the public hearing described in the preceding section, the city council shall establish the annual tax rate, which tax rate shall be calculated to produce substantially the same revenues as required in the budget adopted as provided herein. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-317. Certification of tax levy.

After the annual tax rate has been established by the city council, the city comptroller shall certify the levy to the county collector for collection of taxes in accordance with state law. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-318. Cancellation of uncollectible tax amounts.

(a) *Personal property.* The city comptroller is authorized to cancel from the accounts as uncollectible all personal property taxes that are not collected within five (5) years of their assessment.

(b) *Real property.* The city comptroller is authorized to cancel from the accounts as uncollectible all real estate taxes that are not collected within ten (10) years of their assessment.

(Ord. No. 7497, §1, 3-13-86)

Secs. 2-319—2-321. Reserved.

DIVISION 2. CITY COMPTROLLER

Sec. 2-322. Office created; appointment.

There is hereby created the office of city comptroller. The chief administrative officer shall appoint some suitable person as city comptroller, who shall hold office at the pleasure of the chief administrative officer. The city comptroller shall not be classified within the civil service of the city. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-323. Compensation.

The city comptroller shall receive as full compensation for his services a stated salary to be fixed by the city council in lieu of any and all other remuneration. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-324. Duties generally.

The city comptroller shall be the general fiscal officer of the city, subject to the supervision of the chief administrative officer, and, in such capacity, the comptroller shall:

- (1) Exercise a general supervision over all the fiscal affairs of the city and over all its property, assets and claims and the disposition thereof.

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- (2) Perform all of the duties prescribed by law, for the city assessor and collector.
- (3) Collect all revenues derived from all sources, which may be levied by law, this Code or other city ordinance, and it shall be the comptroller's duty to use all lawful means to secure the prompt payment of the revenue.
- (4) Deposit daily all monies, collected by the comptroller and belonging to the city, in the city depository to the credit of the city treasurer.
- (5) Make monthly detailed reports, due the twentieth day of each month, in writing, to the chief administrative officer, showing the various amounts of money collected by the comptroller during the preceding month from the various sources.
- (6) Attend such meetings of the board of equalization of the county as the chief administrative officer shall direct.
- (7) Furnish, upon request, information concerning special tax bills due the city.
- (8) Make out and countersign all licenses and issue the licenses to the person named therein upon payment to him of the license fee thereon, and keep a register of all licenses issued, which records shall state the number and amount of each license, for what issued, and to whom delivered.
- (9) Be the general accountant and auditor of the city. The records in the office of the comptroller shall show the financial operations, the condition, property, assets, claims and liabilities of the city, all expenditures authorized, and all contracts in which the city is interested.
- (10) Require proper fiscal accounts, records, settlements and reports to be kept, made and rendered to the comptroller by the several departments and offices of the city, including the city collector's office, so far as consistent with law, and control and continually audit the accounts, records, settlements and reports, and prescribe forms, rules and regulations therefor and require their observance consistent with law, the provisions of this Code, or other city ordinance.
- (11) Regulate the making of all requisitions for supplies consistent with ordinance and, except as otherwise provided by law, the provisions of this Code or other city ordinance, the comptroller shall prescribe and regulate the manner of paying creditors, officers and employees of the city.
- (12) Audit all payrolls, accounts and claims against the city and certify thereon the balance as stated. No payroll, account or claim or any part thereof, except for the preservation of the credit of the city or in an extraordinary emergency, shall be audited against the city unless:
 - a. Certified by the officer having knowledge of the facts and authorized by law, the provisions of this Code or other city ordinance, and

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- b. The amount required for payment of the account, payroll or claim appropriated for that purpose by ordinance is in the city treasury.
- (13) See that no contract liability is incurred except for the preservation of the city's credit without previous authority of law or ordinance.
- (14) Adjust the settlements of all officers engaged in the collection of the revenues at least monthly.

(Ord. No. 7497, §1, 3-13-86)

Sec. 2-325. Bond required.

The city comptroller, before entering upon the discharge of the duties of his office, shall give a surety company bond to the city in a sum to be prescribed by the chief administrative officer, to be approved by the chief administrative officer, for the faithful performance of the comptroller's duties, conditioned that the comptroller will faithfully and punctually collect and pay over all city and other revenues and other claims the city may have against any person during the time the comptroller shall be in office, and that the comptroller will in all things faithfully perform all duties of the office of city comptroller according to law, the provisions of this Code and other city ordinances. The bond and the premiums thereon shall be paid for from the general revenue fund of the city. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-326. Books of account.

For the purpose of carrying out the duties of the office, the city comptroller shall keep all necessary and proper books and records. All moneys coming into the city treasury from the general fund and the utility funds shall be credited to "City Revenue." All other income shall be credited to its designated fund. The source of all income, wherever derived, shall be specified. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-327. Reports to the chief administrative officer generally; additional duties.

The city comptroller shall provide such information to the chief administrative officer as the chief administrative officer may from time to time require and shall perform such other duties as the chief administrative officer may assign. (Ord. No. 7497, §1, 3-13-86)

Secs. 2-328—2-344. Reserved.

DIVISION 3. CITY TREASURER

Sec. 2-345. Appointment; term of office.

The city comptroller shall be the city treasurer, and hold office at the pleasure of the chief administrative officer. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-346. Bond.

For surety company bond required of the city comptroller see section 2-325. (Ord. No. 7497, §1, 3-13-86)

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Sec. 2-347. Duties generally.

It shall be the duty of the city treasurer:

- (1) To receive and safely keep all moneys, warrants, books, bonds and obligations and any other property belonging to the city entrusted to the care of the treasurer, and deliver the same to the succeeding treasurer.
- (2) To pay over all moneys, bonds or other obligations of the city on warrants or orders duly drawn, passed or ordered by the council or chief administrative officer and properly approved in accordance with this Code.
- (3) To examine all bills that contemplate the payment of money which may be referred to the treasurer by the chief administrative officer or the city council before their final passage, and if it appears that a sufficient sum stands to the credit of the city unappropriated in the fund covered by ordinance to meet the requirements of the bill, the treasurer shall endorse the bill to that effect.
- (4) To keep in proper books a full and accurate amount of all money received and disbursed by the treasurer for the city, showing the date of receipt and disbursements, from whom received and to whom paid, and on what account received and disbursed.
- (5) To keep a separate account of and with each of the several funds to which the revenues of the city are required to be appropriated, charging the appropriations and crediting the amounts disbursed therefrom, so that the accounts will at all times show the condition of the various funds.
- (6) To keep a copy of all warrants which have been approved for payment and upon which payment has been made and to keep a register of all checks issued showing the number, date, amount and payee of each check issued.
- (7) To keep a record of bonds or other evidences of indebtedness of the city, which shall describe the indebtedness fully in the same manner as in the case of warrants so far as practicable, to whom and at what price the indebtedness was sold, the rate of interest, when and where payable, the date, of maturity, the purpose of issue, the denomination and number of bonds, and the amount of issue.

(Ord. No. 7497, §1, 3-13-86)

Sec. 2-348. Reserved.

Sec. 2-349. Monthly report to chief administrative officer.

The city treasurer shall make monthly reports, due the twentieth day of each month, in writing, to the chief administrative officer in such detail as the chief administrative officer or the city council shall require. (Ord. No. 7497, §1, 3-13-86)

Secs. 2-350—2-370. Reserved.

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ARTICLE VI. PURCHASING

DIVISION 1. GENERALLY

Sec. 2-371. Definitions.

As used in this article, the following terms shall have the meanings ascribed to them:

Contractual services means and includes personal services, all telephone, gas, water, electric light and power services, towel and cleaning services, leases for all grounds, buildings, offices or other space required by the using agency, and the rental, repair or maintenance of equipment, machinery and other city-owned personal property. The term shall not include insurance, professional and other contractual services which are in their nature often unique and not subject to normal competitive bidding.

Cooperating agency means any department, agency, commission, bureau or other unit in the city government not under the direction and control of the city council, or in any other governmental unit whether school district, special authority, other municipality, county or otherwise which cooperates with the city through its director of purchasing in purchasing any items covered by this article.

Director of purchasing means the purchasing agent of the city.

Supplies means and includes all supplies, materials, equipment, commodities and capital outlays.

Using agency means any department, agency, commission, bureau or other unit in the city government using supplies or procuring contractual services as provided for in this article and which shall be under the direction and control of the city council.

(Ord. No. 7497, §1, 3-13-86)

Sec. 2-372. Officers to make contract from director of purchasing.

Except as provided in this article, it shall be unlawful for any city officer or officers to make any contract within the purview of this article other than through the director of purchasing. Any purchase order or contract made contrary to the provisions of this article shall not be approved by the city council and the city shall not be bound thereby. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-373. Conflicts of interest.

Any purchase order or contract within the purview of this article in which the director of purchasing or any officer or employee of the city is financially interested, directly or indirectly, shall be void unless the city council waives compliance with this section before the execution of a purchase order or contract. The city council shall waive this section only when the best interests of the city require such action and the laws of the state do not prohibit the transaction. The director of purchasing shall immediately report to the council any information that the director of purchasing has or that comes to his attention that would indicate any such interest either before or after a purchase has been made. (Ord. No. 7497, §1, 3-13-86)

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Sec. 2-374. Acceptance of gifts or rebates.

The director of purchasing and each officer and employee of the city is expressly prohibited from accepting, directly or indirectly, from any person to which any purchase order or contract is or might be awarded any rebate, gift, money, or anything of value whatsoever, except where given for the use and benefit of the city. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-375. Requisitions and estimates; emergency requirements; revision of requisitions.

All using agencies, either by or with the authorization of the head of the agency, shall to the extent practicable file with the director of purchasing detailed requisitions or estimates of their requirements of supplies and contractual services in such manner, at such times and for such future periods as the director of purchasing shall prescribe.

- (1) *Unforeseen requirements.* A using agency shall not be prevented from filing in the same manner with the director of purchasing at any time a requisition or estimate for any supplies and contractual services it needs that were not foreseen when the detailed estimates were filed subject to budgetary limitations.
- (2) *Revision powers.* The director of purchasing may examine each requisition or estimate and may suggest revisions as to quality, quantity or estimated cost.

(Ord. No. 7497, §1, 3-13-86; Ord. No. 7962, §§ 1, 2, 4-5-90)

Sec. 2-376. Emergency purchasing procedures.

(a) In the event of an apparent emergency which requires immediate purchase of supplies or contractual services, the chief administrative officer is empowered to authorize the director of purchasing to secure by an open market procedure as provided in this division, at the lowest obtainable price, any supplies or contractual service regardless of the amount of the expenditure. A full report of the circumstances of an emergency purchase shall be filed by the chief administrative officer with the city council and shall be entered into the official records of the council and shall be open to public inspection. In the absence or unavailability of the chief administrative officer, the city comptroller may authorize the director of purchasing to make an emergency purchase.

(b) In the event of an actual emergency and with the consent of the director of purchasing and the approval of the chief administrative officer, the head of any using agency may purchase directly any supplies the immediate procurement of which is essential to prevent delays in the work of the using agency that may affect the life, health or convenience of citizens. The head of the using agency shall send to the director of purchasing a requisition and a copy of the delivery record together with a full written report of the circumstances of the emergency. The report shall be filed with the council and be made a part of the permanent records of the council and be open to public inspection.

(Ord. No. 7497, §1, 3-13-86)

Sec. 2-377. Single source purchasing procedure.

The requirement of competitive bids or proposals for supplies may be waived when the Director of Purchasing has determined in writing that there is only a single feasible source for the supplies.

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Immediately upon discovering that other feasible sources exist, the Director of Purchasing shall rescind the waiver and proceed to procure the supplies through the competitive processes as described in this article. A single feasible source exists when:

- (1) Supplies are proprietary and only available from the manufacturer or a single distributor; or
- (2) Based on past procurement experience, it is determined that only one distributor services the region in which the supplies are needed; or
- (3) Supplies are available at a discount from a single distributor for a limited period of time.

(Ord. 8771, §1, 11-19-98)

Sec. 2-378. Reserved.

Editor's note—Ord. No. 7962, § 3, adopted April 5, 1990, repealed § 2-378 which pertained to information as to funds available to using agency and derived from Ord. No. 7497, § 1, adopted March 13, 1986.

Sec. 2-379. Purchase orders required; rejection of nonconforming shipments; approval of invoices.

(a) All purchases of contractual services and supplies made pursuant to this article shall be on such purchase order forms as shall be developed by the director of purchasing, and each purchase order shall reflect salient conditions of the purchases such as description, specification, unit purchase price, aggregate amounts, freight conditions and place of delivery.

(b) A copy of all purchase orders shall be available to the receiving department which will receive the contractual services or supplies purchased, and the receiving department shall reject delivery of any contractual services or supplies which do not conform to the purchase order conditions and specifications.

(c) All invoices for purchases made pursuant to this article shall be approved as being in conformity with the purchase order. Said approval will be made in accordance with procedures established by the city comptroller, and agreed to by the director of purchasing.

(Ord. No. 7497, §1, 3-13-86; Ord. No. 7962, §4, 4-5-90)

Sec. 2-380. Competitive bidding required for purchases or sales of property.

All purchases and contracts for supplies and contractual services, and all sales of personal property which has become obsolete and unusable shall, except as expressly provided in this article, be based wherever possible on competitive bids. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-381. Inspections, tests of goods.

(a) The director of purchasing or the using agencies under the authority of the director of purchasing shall be responsible for ensuring that all supplies and contractual services conform to the specifications set forth in the order or contract.

(b) The director of purchasing shall have the authority to require chemical tests of samples submitted with bids and samples of deliveries which are necessary to determine their conformance with

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the specifications. In the performance of such tests, the director of purchasing shall have authority to make use of laboratory facilities of any agency of the city or any outside laboratory. (Ord. No. 7497, §1, 3-13-86; Ord. No. 7962, §5, 4-5-90)

Sec. 2-382. Surplus, report; transfer or sale.

(a) At least annually, all using agencies shall submit to the director of purchasing, at such times and on such forms as the director of purchasing shall prescribe, reports showing stocks of all supplies which are no longer used or which have become obsolete, worn out or scrapped.

(b) The director of purchasing shall have the authority to transfer surplus stock to other using agencies.

(c) The director of purchasing shall have the authority to sell all supplies which have become unsuitable for possible use, or exchange or trade the supplies for new supplies, in accordance with the procedures set forth in this article.

(Ord. No. 7497, §1, 3-13-86)

Sec. 2-383. Council approval of contracts; endorsement of director of purchasing required.

No resolution or ordinance shall finally passed approving any contract for supplies or contractual services (except for professional services) unless such resolution or ordinance shall contain the endorsement of the director of purchasing on the face thereof, indicating that proper purchasing procedures have been followed. (Ord. No. 7497, §1, 3-13-86)

Secs. 2-384—2-397. Reserved.

DIVISION 2. DIRECTOR OF PURCHASING

Sec. 2-398. Office created; appointment; position to be filled from civil service.

There is hereby created the office of director of purchasing, who shall be appointed by the chief administrative officer subject to civil service provisions of this Code, and which office shall be filled in accordance with the civil service provisions of the city whenever a vacancy exists therein. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-399. Bond.

The director of purchasing shall, upon appointment, give an official bond in an amount prescribed by the chief administrative officer, to be approved by the city attorney or be covered by a blanket bond applicable to several employees of the city. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-400. Authority, duties generally.

The director of purchasing shall have the authority and the duty to purchase or contract for all supplies and contractual services needed by any using agency that derives its support entirely or in part from the city. Purchasing procedures as prescribed by this article and such rules and regulations as the director of purchasing, with the consent of the city council, shall adopt for the internal management and operation of the office of the director of purchasing shall be followed. The authority of the director of

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purchasing to make all purchases for all using agencies shall not be abridged or excepted by any using agency. (Ord. No. 7497, §1,3-13-86)

Sec. 2-401. Additional powers and duties enumerated.

In addition to the purchasing authority conferred in this article, and in addition to any other powers and duties granted and imposed by this article, the director of purchasing shall:

- (1) Procure for the city the highest quality in supplies and contractual services at the least expense to the city.
- (2) Discourage uniform bidding and endeavor to obtain as full and open competition as possible on all purchases and sales.
- (3) Recommend and, with the consent of the city council, establish and amend when necessary all rules and regulations authorized by this article and any others necessary to its operation.
- (4) Keep informed of current developments in the field of purchasing, prices, market conditions and new products and secure for the city the research done in the field of purchasing by other governmental jurisdictions, national technical organizations and by private businesses and organizations.
- (5) Prepare and maintain such forms as are reasonably necessary to the operation of this article.
- (6) Prepare and adopt a standard purchasing nomenclature for using agencies and suppliers.
- (7) Prepare, adopt and maintain a vendors' catalog file.
- (8) Explore the possibility of buying "in bulk" so as to take full advantage of bulk prices and discounts, whether for the city alone or together with cooperating agencies.
- (9) Act so as to procure for the city all federal and state tax exemptions to which it is entitled.
- (10) Be subject to the direction of the city comptroller and cooperate with all persons within the comptroller's office to secure for the city the maximum efficiency in budgeting and accountability.
- (11) Report immediately to the chief administrative officer any vendors who default in their qualifications and any irresponsible bidders and make recommendations to the chief administrative officer for the disqualification of any vendors and bidders from receiving any business from the city for a stated period of time.
- (12) Tabulate at the beginning of each fiscal year the items to be purchased by all using agencies as reflected by their approved budgets in order that purchases of items to be used by several using agencies can be properly scheduled and bulk buying employed.
- (13) Furnish the chief administrative officer and the city comptroller with such reports as both or either may require from time to time as to activities of the office of director of

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purchasing, and file monthly with the chief administrative officer a summary of the activities of the office of the director of purchasing.

- (14) Post monthly in a conspicuous place in the city hall a notice of the bids which are to be received during the coming month, with a brief description of the items involved and the date and time when bids are to be received, and a brief tabulation of the bids which were received during the prior month.
- (15) Keep a permanent file of all written bids received and a memorandum record of all oral bids or proposals received for a period of not less than ten (10) years. All such records, after a period of ten (10) years, may be destroyed.
- (16) Through cooperation from and with the advice of department heads of the city, all officers of the city and private citizens appointed by the city council to assist the director of purchasing, classify all the supplies used by the various branches of the city, adopt as standards the minimum number of qualities, sizes and varieties of supplies consistent with the successful operation of the city, and prepare and adopt written specifications of all such standard supplies. All specifications shall be as definite and certain as possible and shall be drawn to permit competition. This requirement, however, shall not apply to noncompetitive types and kinds of supplies.
- (17) Require, whenever necessary, that a prospective vendor or bidder furnish a performance or bid bond or deposit.

(Ord. No. 7497, §1, 3-13-86; Ord. No. 7962, §§ 6, 7, 4-5-90)

Sec. 2-402. Supervision of warehouses with inventory-controlled stock.

The director of purchasing shall be in control of and supervise all storerooms and warehouses where an inventory-controlled stock is maintained by the city or any using agency of the city. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-403. Inventories.

The director of purchasing shall maintain a perpetual inventory record of all materials, supplies or equipment stored in the storerooms and warehouses under the supervision of the director of purchasing. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-404. Authority to engage in cooperative purchasing.

The director of purchasing shall have the authority, to the extent permitted by law, to join with other units of government or other governmental agencies or authorities in cooperative purchasing when it would serve the best interests of the city. (Ord. No. 7497, §1, 3-13-86)

Secs. 2-405—2-419. Reserved.

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DIVISION 3. FORMAL PURCHASING AND SALES PROCEDURES

Sec. 2-420. When required.

All supplies and contractual services, except as otherwise provided herein, when the extended cost thereof shall equal or exceed seven thousand five hundred dollars (\$7,500.00), shall be purchased by formal written contract from the lowest responsible bidder after due notice inviting proposals. All sales of personal property that has become obsolete and unusable and has an estimated value of seven thousand five hundred dollars (\$7,500.00) or more shall be sold by formal written contract to the highest responsible bidder after due notice inviting proposals. (Ord. No. 7497, §1, 3-13-86; Ord. No. 8668, §1, 11-6-97)

Sec. 2-421. Subdivision of contract to evade requirements of this division prohibited.

No contract or purchase shall be subdivided to avoid the requirements of this division. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-422. Solicitation of bids.

The director of purchasing shall, by certified or registered mail, or in his discretion by first-class mail, solicit sealed bids from at least five (5) responsible prospective suppliers including all suppliers with whom the city has done business within the preceding two (2) years setting forth detailed specifications and all pertinent information necessary for the prospective supplier to file a bid. Prospective suppliers to whom invitations to bid are sent shall be limited to those who are part of the trade group offering commodities and services similar in character to that being purchased. If the director of purchasing is unable to reasonably find five (5) responsible suppliers, he shall certify that fact to the city comptroller who shall then certify to the director of purchasing a number less than five (5) to whom invitations to bid shall be sent and such lesser number, when sent by the director of purchasing, shall be deemed in compliance with the requirements of this section. The provisions of this section may be waived when the director of purchasing, the agency director involved, and the chief administrative officer agree that following this section's provisions may cause excessive delay, public inconvenience, and/or a significant cost penalty. (Ord. No. 7497, §1, 3-13-86; Ord. No. 7962, §8, 4-5-90)

Sec. 2-423. Bid deposit; when required, refund, forfeiture.

When deemed necessary by the director of purchasing, or when requested by a using agency or when directed by the city attorney, bid deposits shall be prescribed in inviting bids. An unsuccessful bidder shall be entitled to return of any surety required. A successful bidder shall forfeit any surety required by the director of purchasing upon failure on the bidder's part to enter into a contract within ten (10) days after the award, and the invitation to bid shall so state. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-424. Manner of submission of bids; opening; recommendations to the council.

Sealed bids shall be submitted to the director of purchasing and shall be identified as bids on the envelope. The bids shall be opened in public at the time and place stated in the invitations to bid and in any public notices. After the opening, the director of purchasing shall tabulate all bids received and file a report of the bids with city council, together with the director of purchasing's recommendations as to whom the award shall be made. (Ord. No. 7497, §1, 3-13-86)

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Sec. 2-425. Award of contract to lowest responsible bidder.

The city council, upon receiving the tabulation and recommendation of the director of purchasing, shall award the contract to the lowest responsible bidder, but shall have the right to reject any and all bids. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-426. Factors for determination of lowest responsible bidder.

In determining the lowest responsible bidder, the city council shall consider:

- (1) The ability, capacity and skill of the bidder to perform the contract or provide the services required.
- (2) Whether the bidder can perform the contract or provide the services promptly or within the time specified, without delay or interference.
- (3) The character, integrity, responsibility, judgment, experience and efficiency of the bidder.
- (4) Whether the bidder is in default on the payment of taxes, licenses or other moneys due the city. This factor alone shall justify disqualification.
- (5) The quality and performance of previous contracts or services.
- (6) The previous and existing compliance by the bidder with laws, the provisions of this Code and other city ordinances relating to the contract or service.
- (7) The sufficiency of the financial resources and ability of the bidder to perform and contract or provide the service.
- (8) The quality, availability and adaptability of the supplies or contractual services to the particular use required.
- (9) The ability of the bidder to provide future maintenance and service of machines for the use of the subject of the contract.
- (10) The number and scope of conditions attached to the bid.

(Ord. No. 7497, §1, 3-13-86)

Secs. 2-427—2-442. Reserved.

DIVISION 4. INFORMAL PURCHASING AND SALES PROCEDURES

Sec. 2-443. When allowed; requirements.

All purchases of supplies and contractual services and all sales of personal property that has become obsolete and unusable for less than the estimated value of seven thousand five hundred dollars (\$7,500.00), but equal to or in excess of the estimated value of three thousand dollars (\$3,000.00), shall be made upon the basis of at least three (3) written bids from three (3) prospective suppliers of the city or such lesser number as shall be certified by the city comptroller in the event three (3) prospective suppliers

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shall not exist. The provisions of this section may be waived when the director of purchasing, the agency director involved, and the chief administrative officer agree that following this section's provisions may cause excessive delay, public inconvenience and/or a significant cost penalty. (Ord. No. 7497, §1, 3-13-86; Ord. No. 7962, §9, 4-5-90; Ord. No. 8668, §2, 11-6-97)

Sec. 2-444. Subdivision of contract to evade requirements of this division prohibited.

No contract or purchase shall be subdivided to avoid the requirements of this division. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-445. Solicitation of bids.

The director of purchasing shall solicit bids by direct mail or telephone request to prospective vendors. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-446. Award to lowest responsible bidder.

The award shall be made to the lowest responsible bidder in accordance with the standards set forth in section 2-426 by the director of purchasing after consultation with the city comptroller and the head of the department in which the using agency operates. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-447. Justification of award to other than low bidder.

When the award is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared by the director of purchasing and filed with the other papers relating to the transaction. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-448. Award to local bidder; tie bids.

If all bids received are for the same total amount or unit price, quality and service being equal, the contract shall be awarded to a local bidder. If there shall be no local bidder or more than one (1) local bidder with a low equal bid, the director of purchasing shall award the contract to one of the tie bidders by drawing lots in public. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-449. Reserved.

Editor's note—Ord. No. 7962, § 10, adopted April 5, 1990, repealed § 2-449, which pertained to the director of purchasing's monthly report and its contents and derived from Ord. No. 7497, § 1, adopted March 13, 1986.

Secs. 2-450—2-464. Reserved.

DIVISION 5. OPEN MARKET PROCEDURE

Sec. 2-465. When allowed.

All purchases of supplies and contractual services and all sales of personal property that has become obsolete and unusable for the estimated value of less than three thousand dollars (\$3,000.00), but equal to or in excess of the estimated value of one thousand five hundred dollars (\$1,500.00), shall be made on the open market without newspaper advertisement and without the procedures prescribed in this

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article for purchases of more than three thousand five hundred dollars (\$3,000.00). (Ord. No. 7497, §1, 3-13-86; Ord. No. 8668, §3, 11-6-97)

Sec. 2-466. Subdivision of contract to evade requirements of this division prohibited.

No contract, purchase or sale shall be subdivided to avoid the requirements of this division. (Ord. No. 7497, § 1, 3-13-86)

Sec. 2-467. Bids; award to lowest responsible bidder.

All open market purchases shall, wherever possible, be based on at least three (3) competitive bids which may be either oral or written, and shall be awarded to the lowest responsible bidder in accordance with the standards set forth in section 2-426. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-468. Solicitation of bids.

The director of purchasing shall solicit bids by direct mail request to prospective suppliers, or by telephone, or by such other method as the director of purchasing shall deem appropriate, in order to receive competitive proposals. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-469. Reserved.

Editor's note—Ord. No. 7962, § 10, adopted April 5, 1990, repealed § 2-469, which pertained to records and report to chief administrative officer and derived from Ord. No. 7497, § 1, adopted March 13, 1986.

Secs. 2-470—2474. Reserved.

DIVISION 6. PURCHASES AND SALES OF LESS THAN ONE THOUSAND DOLLARS

Sec. 2-475. Bids and proposals not required.

All purchases of supplies and contractual services and all sales of personal property that have become obsolete and unusable for less than the estimated value of one thousand five hundred dollars (\$1,500.00) shall be made on the open market without bids or proposals. (Ord. No. 7497, §1, 3-13-86; Ord. No. 8668, §4, 11-6-97)

Sec. 2-476. Check of market conditions.

The director of purchasing shall from time to time, at least annually, make random checks as to prices being quoted by several competing suppliers for contractual services and supplies. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-477. Reserved.

Editor's note—Ord. No. 7962, § 10, adopted April 5, 1990, repealed § 2-477, which pertained to the report to the chief administrative officer and its contents and derived from Ord. No. 7497, § 1, adopted March 13, 1986.

Secs. 2-478—2-481. Reserved.

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DIVISION 7. POLICY AND PROCEDURE FOR THE PROCUREMENT OF ARCHITECTURAL, ENGINEERING, LAND SURVEYING MAINTENANCE SERVICES, AND OTHER PROFESSIONAL SERVICES

Sec. 2-482. Adoption of policy and procedure.

The City does adopt and establish a policy and procedure for the selection and procurement of professional services in accordance with the following provisions.

Sec. 2-483. Implementation of policy.

The Chief Administrative Officer is hereby directed to implement the provisions of the policy set forth herein.

Sec. 2-484. Policy, procedures.

The following shall be the policy and procedures for selecting architectural, engineering, land surveying services, and other professional services (hereinafter referred to as Professional Services) for the City of Kirkwood.

Sec. 2-485. Definitions.

ARCHITECTURAL SERVICES shall mean those services within the scope of practice of architecture as defined by the laws of the State of Missouri, Section 327.091 RSMo.

CITY shall mean the City of Kirkwood.

CITY COUNCIL shall mean the Mayor and Council of the City of Kirkwood.

ENGINEERING SERVICES shall mean those services within the scope of practice of engineering as defined by the laws of the State of Missouri, Section 327.181 RSMo.

FIRM shall mean any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice the profession of architecture, engineering, or land surveying, or other professional services and provide said services.

LAND SURVEYING SERVICES shall mean those services within the scope of practice of land surveying services as defined by the laws of the State of Missouri, Section 327.272 RSMo.

MAINTENANCE SERVICES shall mean the repair, but not replacement, of existing facilities when the size, type, or extent of the existing facilities is not thereby changed or increased.

OTHER PROFESSIONAL SERVICES shall mean those services of a vocation requiring specialized knowledge and intensive academic or technical training in such fields as land appraisal, urban planning, finance, real estate, and others.

SELECTION COMMITTEE shall mean at least three qualified individuals appointed by the Chief Administrative Officer including the department head of the using department, and the Director of

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Purchasing who shall oversee and coordinate the selection process and shall serve as the chair of the selection committee. The selection process shall only be instituted under the supervision and direction of the Director of Purchasing who may with the approval of the Chief Administrative Officer establish procedural rules so long as they are not inconsistent with this ordinance or state law.

USING DEPARTMENT shall mean the City department which requested the professional service and be the prime user and oversee the service.

(Ord. No. 8668, §5, 11-6-97; Ord. No. 8767, §1, 11-5-98)

Sec. 2-486. Classes of Services.

Projects will be divided into four classes as follows:

- (a) **Class A** - Services for projects where fees will exceed \$10,000; the using department shall select at least five firms to be contacted for an "Expression of Interest". After "Expressions of Interest" are received and reviewed, at least three detailed proposals shall be requested. Request for "Expressions of Interest" and detailed proposals may be combined into a single request.

After reviewing the detailed proposals, the Selection Committee shall make a recommendation to the Chief Administrative Officer. The Chief Administrative Officer shall present the recommendation to the City Council for approval or rejection of the Proposal. The Council has the right to approve or reject any and all Proposals.

- (b) **Class B** - Services for projects where fees are less than \$10,000 but more than \$5,000; three written proposals are required, when possible. The three written proposals may be solicited by mail or telephone. After reviewing the detailed proposals, the Selection Committee then makes a recommendation to the Chief Administrative Officer for approval or rejection of the proposal.
- (c) **Class C** - Services for projects where fees are less than \$5,000 may be made by the director of the using department without soliciting competitive proposals upon approval of the Chief Administrative Officer.
- (d) **Class D** - Maintenance service where the costs are less than 5,000 may be made by the director of the using department without soliciting competitive proposals upon approval of the Chief Administrative Officer.

(Ord. No. 8668, §5, 11-6-97)

Sec. 2-487. General Procedures and Responsibilities.

- (a) **Expressions of Interest Class A Projects** - For Class A service, the using department shall solicit proposals from qualified firms approved by the Selection Committee. The request should invite comments as to the special experience in the project being considered and describe previous experience with similar projects. The Expressions of Interest will be reviewed by the department requesting the services. Factors to be determined in the initial screening will include:

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- (1) Specialized experience and technical competence with respect to the type of services required.
 - (2) Quality of services previously performed by the firm for the City.
 - (3) Past record of performance with respect to cost control, quality of services, and ability to meet schedules.
 - (4) Community relations including evidence of sensitivity to citizen concerns.
 - (5) The firms proximity to and familiarity with the area where the project is located.
- (b) **Detailed Proposals** - Firms submitting detailed proposals will provide the information prescribed by the using department. The information shall include:
- (1) Project name for which firm is filing.
 - (2) Name and address of firm.
 - (3) Previous related experience.
 - (4) Outside firms or outside personnel to be used on projects.
 - (5) Brief resume of key persons, specialists.
 - (6) Special experience in the project being considered.
 - (7) Any work previously or currently performing for City.
 - (8) Description of resources.

(Ord. No. 8668, §5, 11-6-97)

Sec. 2-488. Selection.

Upon receipt of the detailed proposals for Class A or B projects, the Selection Committee will review the Proposals; interview the prospective firms, if necessary; and make a recommendation of two firms, best qualified and capable of performing the desired work.

The using department shall negotiate a contract with top firm selected. If a satisfactory contract cannot be negotiated with the top firm, negotiations with that firm shall be terminated with the approval of the Selection Committee. Negotiations may then begin with the second firm. If there is a failing of accord with the second firm, negotiations with such firm may be terminated with the approval of the Selection Committee.

If an agreement cannot be negotiated with the two selected firms, the using department shall re-evaluate the professional services, including scope and fee requirements, and proceed in accordance with this policy.

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(Ord. No. 8668, §5, 11-6-97)

Sec. 2-489. Prohibition Against Contingent Fees.

- (a) Each contract entered into by the City Council for professional services shall contain a prohibition against contingent fees as follows:

The architect, engineer, or land surveyor (as applicable) warrants that he has not employed or retained any company or person, other than a bonafide employee working solely for the architect, engineer, or land surveyor to solicit or secure person, company, corporation, individual, or firm other than a bonafide employee working solely for the architect, engineer, or land surveyor, any fees, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this agreement.

- (b) For the breach or violation of the foregoing provision, the City Council shall have the right to terminate the agreement without liability and at its discretion to deduct from the contract price, or otherwise recover the full amount of such fee, commission, percentage, gift, or consideration.

Sec. 2-490. Exceptions.

- (a) When, in the opinion of the Chief Administrative Officer, the nature of other professional services is so specialized that there is only a sole supplier of a professional service that can meet the City's needs, the Chief Administrative Officer may select such firm or recommend the Council select such firm. An exception shall be promptly reported to the City Council with an explanation of the reasons therefore.
- (b) The City Council in its sole and absolute discretion, may waive any and all aforementioned procedural requirements.

(Ord. No. 8668, §5, 11-6-97)

Secs. 2-491—2-497. Reserved.

ARTICLE VII. BOARDS AND COMMISSIONS

DIVISION 1. GENERALLY

Sec. 2-498. Nomination procedure for term appointment.

(a) The city clerk shall notify all members of the council of the expiration of any term of a member of any board or commission. Such notification shall be provided at least sixty (60) days prior to the expiration of the term but not earlier than ninety (90) days prior to the expiration of such term.

(b) Upon such notification, the mayor and all members of the council shall submit nominees together with a brief resume or description of such nominee to the city clerk. Nothing contained herein shall prohibit the mayor or council member from renominating an existing board member for

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reappointment to a board or commission unless the provisions of the Code applicable to such board or commission prohibit successive terms.

(c) All nominations should be submitted to the city clerk fifteen (15) days prior to the expiration of the term of office. Thereafter, the city clerk shall prepare a list of all nominees and such list shall be distributed to the mayor and council for their consideration. Appointments to the board and commissions shall be made by majority of a resolution of the mayor and council at a council meeting.

(Ord. No. 7729, §1, 1-7-88)

Sec. 2-499. Filling vacancy.

In the event that a position on any board or commission shall become vacant, the city clerk shall notify the mayor and council of such a vacancy as soon thereafter as possible. Within thirty (30) days following such notification, the mayor and council shall submit nominees together with a brief resume or description of such nominee to the city clerk. Following such thirty-day period, the city clerk shall prepare a list of all nominees and such list shall be distributed to the mayor and council for their consideration. Appointments to fill the vacancy shall be made by majority vote of a resolution of the mayor and council at a council meeting. (Ord. No. 7729, §1, 1-7-88)

Secs. 2-500. Requirements for membership

(a) With the exception of the Special Business District and the Architectural Review Board, all members of any Board or Commission shall be residents of the city, at the time of the appointment. Any member of any board or commission who moves out of the city during their term, may, at the sole discretion of the city council, complete their term.

(b) The city council shall not nominate or appoint any person to any board or commission who is a member of the immediate family of a council person. "immediate family" for the purpose of this section is defined as spouse, child, step-child, brother, step-brother, sister, step-sister, parent, step-mother, step-father, father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law, daughter-in-law, or grandparent.

(Ord. No. 8203, §2-500, 5-6-93)

Secs. 2-501—2-517. Reserved.

DIVISION 2. PLANNING AND ZONING COMMISSION*

Sec. 2-518. Created.

There is hereby created a planning and zoning commission. Those members presently serving in office under the prior ordinance shall continue to serve for the remainder of their respective terms and all business before the present commission shall continue to be considered by the commission pursuant to the authority granted to it by this Code. (Ord. No. 7497, §1, 3-13-86)

*Cross references—Zoning, App. A; subdivisions, App. B.

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Sec. 2-519. Composition; appointment; terms of members.

The planning and zoning commission shall consist of nine (9) members, all of whom shall be residents of the city. The nine resident members shall be appointed by the city council for a term of four (4) years, and any person chosen to fill a vacant position shall be appointed to serve the balance of such term. (Ord. No. 7497, §1, 3-13-86; Ord. No. 8727, §1, 5-21-98; Ord. No. 8847, §1, 9-2-99; Ord. No. 9221, §1, 2-6-03)

Sec. 2-520. Removal of members.

A member of the planning and zoning commission may be removed by the city council only after a public hearing during which good cause for removal is shown. Four (4) unexcused absences in succession shall constitute a presumption of good cause for purposes of removal. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-521. Organization.

The planning and zoning commission may elect from among its members its own chairman, vice-chairman, secretary and treasurer, and from time to time provide such rules and regulations, not inconsistent with the provisions of this Code and other ordinances of the city, for its own organization and procedure as it may deem proper. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-522. Employment of assistants; appropriations for expenses.

The planning and zoning commission may employ such city planners, engineers, clerks and other persons as authorized by the city council, which shall provide, by proper appropriation or ordinance, salaries and compensation and other necessary expenses of the commission and its members. (Ord. No. 7497, §1, 3-13-86)

Sec. 2-523. Powers; duties; recommendations.

(a) The planning and zoning commission shall prepare a comprehensive plan or plans showing its ideas and recommendations of a zoning system covering the whole or any part of the city, together with its recommendations as to restrictions and other questions or issues therewith connected, and provide such outlines, drawings, maps or plans covering the whole or any portion of the city and of any lands outside of the city that, in the opinion of the commission, bear relation to the welfare or beauty of the city or its inhabitants. The plan or plans shall show the commission's ideas and recommendations relative to the location, length, width and arrangement of the streets, alleys, bridges, viaducts, parks, playgrounds boulevards or other public grounds or improvements, the platting of public property into lots, plots, streets, alleys, railroad lines, transportation or other channels for communication of any kind, the grouping of public buildings, the design and placing of any memorials, works of art, power or lighting plants, street lighting standards, telegraph and telephone poles, street name signs, billboards or projecting signs, and all other things pertaining to the welfare, housing, appearance or beauty of the city or any portion thereof. The commission shall make recommendations to the city council with respect to all proposed subdivisions and changes in zoning maps or regulations.

(b) The commission shall be responsible for all duties imposed upon it by this Code and state statutes. (Ord. No. 7497, §1, 3-13-86)

Secs. 2-524—2-530. Reserved.

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DIVISION 3. ARCHITECTURAL REVIEW BOARD

Sec. 2-531. Architectural Review Board Created; Purpose.

An Architectural Review Board is hereby created and established for the purpose of promoting high standards of architectural design, thereby serving the general welfare of the community. The Architectural Review Board will review certain building plans for new construction, exterior renovations, or additions as designated by the City of Kirkwood Zoning Code. The Architectural Review Board will also review certain signs in all zoning districts. The intent of architectural review is to attempt to insure that the architectural scheme of proposed new construction, exterior renovation, or additions in designated areas and proposed new signs in all zoning districts are in harmony with the architectural scheme of the building, site, and surrounding area while striving not to destroy individual creativity for the sake of conformity and avoiding the precise standards that direct attention to superficialities of style rather than general aspects of design. (Ord. No. 8173, §1, 12-3-92; Ord. No. 8512, §1, 5-16-96)

Sec. 2-532. Membership; terms; removal; vacancies.

(a) The board shall consist of five (5) members. Each member of the board shall be appointed by the mayor, with approval of the city council. The first term of one (1) board member shall be for three (3) years. The first term of two (2) board members shall be for two (2) years. The first term of the two (2) remaining board members shall be for one (1) year. Thereafter, the terms for all successors shall be for three (3) years. Each member shall serve until a successor is duly appointed and qualified. In the event of death, resignation or removal of any member, a successor shall be appointed to serve for the unexpired term for which such member has been appointed. The council may remove any member of the board at any time.

(b) Preferably, one (1) member of the board shall be a commercial property owner, business owner, business operator, or employee of a business within the City of Kirkwood and at least two (2) members of the board shall be professionals in architecture, landscape design, graphic arts, industrial design, urban planning, or similar fields who reside in the City of Kirkwood. Three members of the Board shall constitute a quorum for conducting its business.

(Ord. No. 8173, §2, 12-3-92; Ord No. 8255, §2, 10-7-93; Ord. No. 8715, §1, 4-2-98)

Sec. 2-533. Organization.

The architectural review board shall elect from its members its own chairman and vice-chairman. The vice-chairman is to act as chairman in the absence of the chairman. The chairman and vice-chairman shall be elected for a term of one (1) year but shall hold the office until a successor has been elected. The city, by and through the office of the building commissioner, shall designate a person to serve as secretary to the board who shall keep a detailed record of all proceedings. Such records shall be kept on file in the building commissioner's office. (Ord. No. 7644, §1, 4-16-87)

Sec. 2-534. Rules of procedure; meetings.

The architectural review board shall make rules and regulations as it shall deem necessary for the conduct of its affairs provided that such rules and regulations shall not be inconsistent with the provisions of this code and other ordinances of the city. The board shall hold public meetings as are necessary in order to conduct its business. (Ord. No. 7644, §1, 4-16-87)

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Sec. 2-535. Powers and duties.

The Architectural Review Board shall review building applications upon the submission of an application and payment of a non-refundable fee in accordance with Chapter 5, Article VI, "Fee Schedule." The Architectural Review Board shall also review sign permit applications upon submission of an application and payment of a non-refundable fee in accordance with Chapter 5, Article VI, "Fee Schedule." The board shall review the permit application, together with any plans, elevations, detailed drawings, specifications pertaining to such application. No building permit reviewed by the board pertaining to construction, exterior renovation, or addition shall be issued until the Architectural Review Board has made an affirmative finding that the proposed construction complies with the development criteria set forth in the code. No sign permit shall be issued for a sign reviewed by the board until the board has made an affirmative finding that the proposed sign complies with the criteria for signs set forth in the code.

(Ord. No. 8173, §3, 12-3-92; Ord. No. 8595, §1, 3-20-97; Ord. No. 8760, §1, 9-17-98; Ord. No. 9611, §1-2, 8-3-06)

Sec. 2-536. Review process.

(a) Sign Permits: Except as otherwise provided herein, the Architectural Review Board shall review and act upon sign permit applications referred to it within twenty-one (21) days of the date on which such application is filed with the Building Commissioner's Office unless the applicant and Architectural Review Board jointly agree to extend the time for review.

(b) Building Permits: Except as otherwise provided herein, the Architectural Review Board shall review and act upon building permit applications referred to it within thirty (30) days of the date on which such application is filed with the Building Commissioner's Office unless the applicant and Architectural Review Board jointly agree to extend the time for review.

In reviewing applications that are part of a comprehensive project involving review by the Planning and Zoning Commission, the Architectural Review Board shall make a good faith effort to review and act upon such application so that the action of the Architectural Review Board will coordinate with the review and action of the Planning and Zoning Commission, provided that the review process does not exceed the time period described above.

Applications that are subject to review by the Architectural Review Board and the Landmarks Commission shall be reviewed concurrently by each body in order that the review period shall not exceed ninety (90) days.

(c) Failure to Act in Prescribed Time: If the board fails to take action within the time prescribed herein, it shall be considered to have recommended approval of the application.

(Ord. No. 7644, §1, 4-16-87; Ord. No. 8173, §4, 12-3-92; Ord. No. 9753; §1, 3-6-08)

Sec. 2-537. Appeals.

(a) In the event that the architectural review board shall make a negative finding with respect to a building permit application under its consideration, the applicant may appeal such negative finding to the city council. In the event the subject matter of such application is to be considered by the city council

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because of other provisions of this Code, then such review by the city council shall include a review of this finding, and the city council may reverse, modify or affirm the architectural review board with respect to this finding by a majority vote.

(b) In the event the subject of the building permit application would not otherwise come before the council, then upon application to the city clerk within fifteen (15) days of the entry of the decision of the architectural review board at the board meeting, upon a form made available for this purpose, the application may appeal the negative finding of the architectural review board with respect to this section. The city council shall then hold a hearing and may reverse, modify or affirm the architectural review board's decision by a majority vote.

(c) In the event that the architectural review board shall make a negative finding with respect to a sign permit application under its consideration, the applicant may appeal such negative finding pursuant to the administrative procedure prescribed by law.

(Ord. No. 7644, §1, 4-16-87)

Sec. 2-538. Facilities and personnel; assistance by city attorney.

The city, through the office of the chief administrative officer, shall assign to the architectural review board such office space and facilities and such necessary clerical help as shall be necessary for the fulfillment of its duties. The city attorney shall render such legal services as shall be necessary or required by the board. (Ord. No. 7644, §1, 4-16-87)

Sec. 2-539. Annual report.

The architectural review board shall provide minutes or reports of its meeting to the mayor and council. (Ord. No. 7644, §1, 4-16-87)

Secs. 2-540—2-559. Reserved.

DIVISION 4. AUDIT COMMITTEE

Sec. 2-560. Creation, number members; purposes.

There is hereby created an Audit Committee which shall consist of at least three members of the Kirkwood City, one of whom shall be the Mayor and shall serve as Chair of the Committee. The City Council shall select from among its members at least two Council Members to serve for a three-year term or until the conclusion of their current term, whichever comes first. The Committee shall appoint a member of staff or qualified independent professional to serve as support for the Committee.

Sec. 2-561. Meetings.

The Audit Committee should meet at least four times per fiscal year or more as circumstances may require. The committee may conduct executive sessions with the Chief Administrative Officer, Director of Finance, City Attorney and/or anyone else as desired by the committee.

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Sec. 2-562. Annual report.

The Audit Committee shall file with the City Clerk their year's work no later than October 31st of each fiscal year.

Secs. 2-563—2-564. Reserved.

(Ord. No. 9783, §1, 8-21-08)

DIVISION 5. FINANCE COMMITTEE

Sec. 2-565. Creation, number members; purposes.

(a) There is hereby created a citizen's finance advisory committee which shall consist of eight (8) members who shall serve a three-year term. The committee shall be appointed by the mayor, with approval of the city council. The first term of three (3) committee members shall be for three (3) years. The first term of three (3) committee members shall be for two (2) years. The first term of two (2) committee members shall be for one (1) year. Each member shall continue to serve until a successor is duly appointed and qualified. In the event of death, resignation or removal of any member, a successor shall be appointed by the council to serve for the unexpired term for which such member has been appointed. The council may remove any member of the committee at any time.

(b) The purpose of this committee shall be:

- (1) To serve as an advisory body to the city council and to provide suggestions, recommendations, and comments to the city council concerning the preparation of the city's annual operating and capital budget, and the three-year capital program. The primary objective of the committee is to assure citizen input on both the short term and long term financial condition of the city, the reasonableness and appropriateness of specific budget requests, and to provide other financial direction as may be requested by the city council.
- (2) To work with the chief administrative officer and city comptroller in a mutually cooperative fashion, including the interviewing of department heads annually during the budget process in order to gain an understanding of the need and cost of specific line-item operating and capital requests.
- (3) To work with the chief administrative officer and the city comptroller in a mutually cooperative fashion in reviewing revenue forecasts and the assumptions upon which they are based.
- (4) To conduct such other reviews as may be deemed necessary or as requested to adequately formulate recommendations on the city's financial condition, budgetary actions, and fiscal policies.

(Ord. No. 8007, §1, 11-15-90)

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Sec. 2-566. Coordination of recommendations.

(a) The chief administrative officer upon preparing the annual budget and submission of that budget to the city council shall, at the same time, submit a copy to the citizen's finance committee.

(b) At least four (4) weeks prior to the established date for the public hearing on the budget the citizen's finance committee shall present to the city council a written appraisal or critique of the chief administrative officer budget submission, along with specific recommendations for change, if any.

(Ord. No. 8007, §1, 11-15-90)

Sec. 2-567. Organization.

The citizens finance committee shall annually elect from its members its own chair and vice chair. The vice chair is to act as chair in the absence of the chair. The chair and vice chair may be elected to two (2) consecutive one-year terms but shall hold office until a successor has been elected. (Ord. No. 8007, §1, 11-15-90)

Sec. 2-568. Meeting facilities and staff assistance.

The city, by and through the office of the city comptroller, shall provide such office space and administrative and staff support as deemed necessary for the fulfillment of the duties of the citizens finance committee. (Ord. No. 8007, §1, 11-15-90)

DIVISION 6. KIRKWOOD URBAN FORESTRY COMMISSION

Sec. 2-569. Created; Purpose.

A Kirkwood Urban Forestry Commission is hereby created and established for the purpose of promoting high standard of long-term planning, maintenance, and perpetuation of Kirkwood's publicly owned trees and encouraging responsible management and maintenance of privately owned trees. The Commission shall review current City ordinances and practices that affect planting, maintenance, and removal of trees on public and private property and advise the City Council on suggested amendments, provided however, the scope of the Commission's review of tree management practices on private property shall be strictly limited to issues of public health, safety, or public nuisance. The Commission shall advise the City Council, staff, and the public of the current state of the City's urban forest and any needed action on the part of the City to improve or preserve it.

The Commission shall annually organize with the assistance of city staff as required, an annual Arbor Day celebration, and in general, advocate urban forestry activities at the Greentree Festival and other similar events. A report shall be annually prepared by the Commission and designated the Kirkwood Urban Forest Report that details urban forest activities for the past year and suggests activities for the coming year. Said report shall be made to the City Council by October 31 of each year. The Commission shall be empowered, upon approval of the City Council, to prepare grant applications to obtain funds for urban forestry activities. The Commission may provide a conduit for technical information or advice as requested by City staff, other City boards or commissions, citizens, and developers regarding appropriate strategies of long-term planning, maintenance, and perpetuation of Kirkwood's publicly owned trees.

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The Commission shall encourage appropriate tree planting on City property, excluding however, property officially designated as public parks. Furthermore, the Commission may organize education programs for the benefit of Kirkwood citizens, and assist in developing a cooperative program of coordinating utility easement maintenance with appropriate urban forestry strategies. The City's 1997 Street Tree Inventory prepared by the Kirkwood TreeKeeper's program shall be reviewed at least annually and coordinate, as needed, additional volunteer efforts to update or maintain the accuracy of the inventory.

Sec. 2-570 Membership; Terms; Removal; Vacancies.

Each member shall serve for a term of three (3) years, provided that the initial appointments to the Commission shall be as follows: Two (2) members shall be appointed for a term of one (1) year; two (2) members shall be appointed to a term of two years; the three (3) members shall be appointed to a term of three (3) years; thereafter, each successor who shall be appointed shall be appointed for a term of three (3) years.

Each member shall serve until a successor is duly appointed and qualified. In the event of death, resignation, or removal of any member, a successor shall be appointed to serve for the unexpired term for which such member had been appointed. The Council may remove any member of the Commission at any time.

Members of the Commission shall be selected based upon their professional experience, training, special interest, or exhibited abilities in the area of urban forestry or related fields.

Sec. 2-571 Organization.

The Kirkwood Urban Forestry Commission shall elect from its members its own Chair, Vice-Chair, and Secretary. The Vice-Chair is to act as the Chair in the absence of the Chair. The Chair and Vice-Chair shall be elected for a term of one year, but shall hold the office until a successor is elected. The Secretary shall, with the assistance of staff designated by the chief administrative officer, record the substance of all meetings, and in coordination with the city clerk, assist in the compliance with all aspects of the Missouri Open Meetings Law.

Records of the Commission shall be maintained in the office of the chief administrative officer or other such office as may be designated by the chief administrative officer.

Sec. 2-572 Rules of Procedure, Meetings.

The Kirkwood Urban Forestry Commission shall make rules and regulations as it shall deem necessary for the conduct of its affairs provided that such rules and regulations shall not be inconsistent with the provisions of this code and other ordinances of the City. The Commission shall hold public meetings at least once each calendar quarter in order to conduct its business.

Sec. 2-573 Facilities and Personnel; Assistance by the City Attorney.

The City, through the office of the chief administrative officer, shall assign to the Kirkwood Urban Forestry Commission such officer space and facilities and such necessary clerical help as shall be necessary for the fulfillment of its duties. The City Attorney shall render such legal services as shall be necessary or required by the Commission.

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Secs. 2-574—2-580. Reserved.

ARTICLE VIII. MAIN STREET MARKET

Sec. 2-581. Established.

There is hereby established as a municipal marketplace the Kirkwood Main Street Market d/b/a Kirkwood Farmer's Market ("Market"), on Block A, Original Town of Kirkwood. (Ord. No. 7497, §1, 3-13-86; Ord. No. 9723, §1, 12-6-07)

Sec. 2-582. Market master—Appointment; compensation; hours.

The Executive Director of the Kirkwood Junction Special Business District ("SBD") shall appoint a Market Master to serve at the will of the Downtown Kirkwood Special Business District Advisory Commission ("Commission"), and at such compensation as shall be determined from time to time by the Commission. This position reports to the Executive Director. (Ord. No. 7497, §1, 3-13-86; Ord. No. 9723, §1, 12-6-07)

Sec. 2-583. Market master—Duties.

The Market Master shall have the following duties and such other duties as may be incidental thereto:

- (1) Solicitation and selection of vendors for the Market. Assign vendor spaces.
- (2) Supervise the operation and maintenance of the Market.
- (3) Enforce provisions of the vendor agreements and the operating rules of the Market.
- (4) Arbitrate disputes between vendors and between vendors and the public.
- (5) Maintain and control supplies necessary for the operation of the Market.
- (6) Plan and execute marketing and special events with assistance from the Farmers' Market Committee ("FMC").
- (7) Order the removal of any goods, wares or merchandise from the Market when the sale of such items appears to be detrimental to the public health or in violation of the rules and regulations of the market or in violation of the vendor's agreement for use of Market facilities.
- (8) Any decision of the Market Master may be appealed to the FMC by any aggrieved person. The FMC will make a recommendation to the Commission. The Commission's decision will be final.
- (9) Maintain records of all income received from the Market and forward them promptly with receipts to the Director of Finance for deposit in the SBD revenue accounts.
- (10) Annually, review and, if necessary, revise form of rental agreement for use in renting Market facilities as required. Negotiate terms and conditions of rental agreement and prepare draft contracts. Revised form of rental agreement and draft contracts must be

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reviewed and approved by City Attorney. The form of rental agreement shall be approved by the Executive Committee of the Commission (Chairperson, Treasurer and Secretary). Material changes to a lease agreement affecting the terms and conditions of the draft rental agreement shall be reviewed with each affected vendor prior to review and approval by the City Attorney. Non-standard lease agreements shall be approved by a majority vote of the Commission.

- (11) Prepare draft annual budget depicting anticipated income and expenditures on a line item basis for the fiscal year beginning April 1 and ending March 31. Review draft budget with the Executive Director.
- (12) Periodically review and recommend changes to the Executive Director and Commission for rules and regulations governing Market operations. Discuss recommended changes with FMC and submit their comments to Executive Director and Commission for their consideration.

(Ord. No. 7497, §1, 3-13-86; Ord. No. 9723, §1, 12-6-07)

Sec. 2-584. Farmers' Market Committee.

(a) *Appointment, quorum, officers and responsibilities.* The Commission shall nominate a committee of five (5) persons, three (3) of whom shall be residents of the City, and not more than three (3) of whom own or are employed by a municipally licensed business located within the boundaries of the district. The City Council shall approve such nominees to be known as the Farmers' Market Committee ("FMC") to serve for a term of three years and shall report to the Market Master. FMC members can serve not more than two consecutive terms providing they are nominated for reappointment by the SBD and approved by the City Council. A majority of such number shall constitute a quorum for the transaction of business. The committee shall elect a chairman and secretary and such other officials as it may deem desirable. The committee shall:

- (1) Act as a sounding board for the community, communicating the extent to which the Market is meeting the needs of citizens, visitors and the business district and report finding and recommendations to Market Master.
- (2) Review Market Master's proposed changes to rules and regulations governing Market operations and submit comments to Market Master.
- (3) Review applications for rental of Market space and submit any recommendations for acceptance, acceptance with modifications, or rejection to the Market Master.
- (4) Assist the Market Master in an annual review of the proposed composition of Market vendor mix and rental rates for use of Market facilities and submit recommendations to Market Master for approval by the Executive Director and the Commission. Vendor leases/contracts shall be executed by the Executive Director upon standing or explicit authority of the Commission. No member of the FMC shall negotiate terms or conditions of vendor leases/contracts, purchase agreements or any other agreement obligating the City of Kirkwood or SBD to provide remunerations or services to any other party.
- (5) Analyze future use opportunities for Market facilities / property and make recommendations to Market Master. Recommendations will be reviewed by Market Master and Executive Director and may be incorporated into a strategic plan of the SBD

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for review and approval of the Commission. Recommendations requiring a change of use, capital expenditure or expansion will require City Council review and approval.

- (6) Review and make recommendations to the Market Master regarding the use, maintenance and improvement of the "Commons," which term shall be used to describe the following area: Starting at the intersection of the south right-of-way line of Argonne Avenue and the west right-of-way line of Taylor Avenue. Hence southwardly along the Taylor Avenue right-of-way line to its intersection with the north right-of-way line of the Union Pacific Railroad. Then westwardly along the railroad right-of-way line to its intersection with the east right-of-way line of Kirkwood Road. Then northwardly along the Kirkwood Road right-of-way to its intersection with the south right-of-way line of Argonne Drive. Then eastwardly to its point of beginning. Excluding the area designated as " permit parking" in Appendix A, section 14-334 of the City of Kirkwood General Ordinances.

(b) *Meetings.* The FMC shall meet on the fourth Thursday of the month during the Market season. All meetings of the FMC shall be open to the public except those specifically closed pursuant to state law. The times and places of such meetings shall be posted in the manner provided for all, boards, commissions and committees of the city. Members of the FMC may be asked to resign their seat if they are absent from three consecutive unexcused meetings. A member of the FMC, elected annually by a majority of the FMC members, may serve as chair for no more than two (2) consecutive years.

(Ord. No. 7497, §1, 3-13-86; Ord. No. 8106, §1, 2-6-92; Ord. No. 9040, §1, 6-7-01; Ord. No. 9723, §1, 12-6-07)

Sec. 2-585. Appeals.

Any recommendation of the FMC may be appealed to the Commission by an aggrieved party. (Ord. No. 7497, §1, 3-13-86; Ord. No. 9723, §1, 12-6-07)

Sec. 2-586. Budget.

The SBD shall enact a budget and the City Council shall approve the budget and make appropriations for each fiscal year for the market. Such appropriations may be amended from time to time by the SBD with approval by the City Council. Such budget and appropriations are part of the SBD's general budget and appropriations made for the SBD.

- (a) *Supplemental appropriations.* If during the fiscal year the SBD certifies that there are available for appropriation current revenues in excess of those estimated in the budget, or an unencumbered balance from the previous fiscal year in excess of the amount estimated in the budget, or the requirement for additional expenditures not anticipated in the budget, the council by ordinance, at the request of the SBD, may make supplemental appropriations for the year up to the amount permitted by law and this charter.
- (b) *Reduction of appropriations.* If at any time during the fiscal year it appears probable to the Executive Director that the revenues available will be insufficient to meet the amount appropriated, it shall be reported to the SBD and after the SBD's concurrence, reported to the council without delay. The SBD or its Executive Director shall indicate the estimated amount of the deficit, any remedial action taken and recommendations as to any other steps to be taken. The SBD shall then take such further action as it deems necessary to

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prevent or minimize any deficit and for that purpose it may request the council to reduce appropriations by ordinance.

(Ord. No. 7497, §1, 3-13-86; Ord. No. 9723, §1, 12-6-07)

Sec. 2-587. Finances.

The Director of Finance shall establish separate accounts for receipts and expenses of the Market. Any excess of receipts and expenses shall be added to and become a part of the SBD's Fund Balance. Services rendered by other city departments, at the request of the SBD or its' staff, to the market may be charged against the accounts of the Market upon request of the department furnishing such services. The Commission shall annually designate those employees authorized to execute leases, purchase goods or services on the City's credit cards, or approve purchase requisitions.

The Executive Director shall authorize payment for expenditures made in payment of budgeted line items appropriated by the Council providing that the Commission has designated and approved such signatory authority to the Executive Director during the current fiscal year but prior to any payment authorizations.

The Executive Director may authorize the transfer of unencumbered surpluses from one account to another, within the accounts of any SBD department, provided that no such transfers shall exceed such sum as may be established by ordinance from or to any account within the fiscal year unless such transfer is authorized by ordinance providing that the Commission has designated and approved such signatory authority to the Executive Director during the current fiscal year but prior to any transfer authorizations.

(Ord. No. 7497, §1, 3-13-86; Ord. No. 9723, §1, 12-6-07)

Secs. 2-588—2-599. Reserved.

ARTICLE IX. OPEN MEETINGS AND RECORDS

DIVISION 1. GENERALLY

Sec. 2-600. Controlling law.

Chapter 610 of the Revised Statutes of Missouri (commonly referred to as the "Sunshine Law") governs open meetings and records, and shall control in the event that the provisions contained herein are inconsistent with Chapter 610, RSMo.

Sec. 2-601. Definitions.

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

1. *CLOSED MEETING, CLOSED RECORD OR CLOSED VOTE:* Any meeting, record or vote closed to the public.
2. *COPYING:* If requested by a member of the public, copies provided as detailed in the provisions of this Chapter, if duplication equipment is available.
3. *PUBLIC BUSINESS:* All matters which relate in any way to the performance of the City's

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functions or the conduct of its business.

4. *PUBLIC GOVERNMENTAL BODY*: Any legislative, administrative, governmental entity created by the Constitution or Statutes of this State, orders or ordinance of the City, judicial entities when operating in an administrative capacity, or by executive order, including:
 - a. Any advisory committee or commission appointed by the Mayor or City Council.
 - b. 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.
 - c. 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 Mayor, City Council, or the Chief Administrative Officer, policy or policy revisions or expenditures of public funds. The custodian of the records of any public governmental body shall maintain a list of the policy advisory committees described in this Subsection; and
 - d. Any quasi-public governmental body.
5. *QUASI-PUBLIC GOVERNMENTAL BODY*: 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 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.
6. *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 article, but the term shall include a public vote of all or a majority of the members of a public governmental body, by electronic communication or any other means, conducted in lieu of holding a public meeting with the members of the public governmental body gathered at one (1) location in order to conduct public business.
7. *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

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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 document or study prepared for a public governmental body by a consultant or other professional service as described in this section shall be retained by the public governmental body in the same manner as any other public record.

8. *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.

Sec. 2-602. Meetings, records and votes to be public - Exceptions

All meetings, records and votes are open to the public, except that any meeting, record, minutes 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:

- a. Legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives and its attorneys. However, any minutes, vote, or settlement agreement relating to legal actions, causes of action, or litigation involving a public governmental body or any agent or entity representing its interests or acting on its behalf or with its authority, including any insurance company acting on behalf of a public government body as its insured, shall be made public upon final disposition of the matter voted upon or upon the signing by the parties of the settlement agreement, unless, prior to final disposition, the settlement agreement is ordered closed by a court after a written finding that the adverse impact to a plaintiff or plaintiffs to the action clearly outweighs the public policy considerations of Section 610.111, RSMo., however the amount of any moneys paid by, or on behalf of, the public governmental body shall be disclosed; provided however, in matters involving the exercise of the power of eminent domain, the vote shall be announced or become public immediately following the action on the motion to authorize institution of such a legal action. Legal work product shall be considered a closed record.
- b. 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.
- c. 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 herein, the term "*personal information*" means information relating to

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- the performance or merit of individual employees.
- d. Non-judicial mental or physical health proceedings involving identifiable persons, including medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment.
 - e. Testing and examination materials, before the test or examination is given or, if it is to be given again, before so given again.
 - f. Welfare cases of identifiable individuals.
 - g. Preparation, including any discussions or work product, on behalf of a public governmental body or its representatives for negotiations with employee groups.
 - h. Software codes for electronic data processing and documentation thereof.
 - i. Specifications for competitive bidding, until either the specifications are officially approved by the public governmental body or the specifications are published for bid.
 - j. 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.
 - k. 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. It is the policy of the City that no information relating to present or past employees other than names, positions, salaries and lengths of service shall be provided to any person or agency other than: (i) as specifically requested in writing by the employee in question in accord with applicable provisions of the City's personnel policies; (ii) as may be required in response to a subpoena lawfully issued by a court of competent jurisdiction, or (iii) as otherwise may be required by law.
 - l. Records which are protected from disclosure by law.
 - m. Meetings and public records relating to scientific and technological innovations in which the owner has a proprietary interest.
 - n. Records relating to municipal hotlines established for the reporting of abuse and wrongdoing.
 - o. 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.
 - p. 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

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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 nondisclosure outweighs the public interest in disclosure of the records. This exception shall expire and be of no further force or effect on December 31, 2008.

- q. 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.
 - 1. Records related to the procurement of or expenditures relating to security systems purchased with public funds shall be open;
 - 2. When seeking to close information pursuant to this exception, the public governmental body shall affirmatively state in writing that disclosure would impair the public governmental body's ability to protect the security or safety of persons or real property, and shall in the same writing state that the public interest in nondisclosure outweighs the public interest in disclosure of the records;
 - 3. Records that are voluntarily submitted by a nonpublic entity shall be reviewed by the receiving agency within ninety days of submission to determine if retention of the document is necessary in furtherance of a state security interest. If retention is not necessary, the documents shall be returned to the nonpublic governmental body or destroyed;
 - 4. This exception shall expire and be of no further force or effect on December 31, 2008.
- r. Records that identify the configuration of components or the operation of a computer, computer system, computer network, or telecommunications network, and would allow unauthorized access to or unlawful disruption of a computer, computer system, computer network, or telecommunications network of a public governmental body. This exception shall not be used to limit or deny access to otherwise public records in a file, document, data file or database containing public records. Records related to the procurement of or expenditures relating to such computer, computer system, computer network, or telecommunications network, including the amount of moneys paid by, or on behalf of, a public governmental body for such computer, computer system, computer network, or telecommunications network shall be open.
- s. 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.

Sec. 2-603. Records pertaining to investigations and investigations of allegedly illegal conduct.

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In order to allow the fullest cooperation by employees and members of the public in investigation of matters wherein an employee of the City is alleged to have engaged in any form of misconduct, all files, records and documents relating to investigations of allegations of misconduct by City employees will be considered to be personnel records and shall be closed records under the custody of the respective department head or personnel office.

Sec. 2-604. Records pertaining to medical condition or history.

All information obtained by the City regarding medical examinations, medical condition or medical history of City employees or job applicants, if retained by the City, shall be collected and maintained on separate forms and in separate medical files and shall be treated as closed and confidential records, except that:

- a. Supervisors and managers may be informed regarding necessary restrictions on the work duties of employees and necessary accommodations;
- b. First aid and safety personnel may be informed, when appropriate, if the information reflects the existence of a disability which might require emergency treatment; or
- c. Government officials investigating compliance with State or Federal law pertaining to treatment of persons with disabilities may be allowed access to such records.

Sec 2-605. Records containing confidential, proprietary or private information.

1. In order to protect reasonable expectations of privacy on the part of persons having dealings with the City, City records containing information or entries of a personal, confidential, private or proprietary nature, including, but not limited to, income, sales data, financial circumstances, household and family relationships, social security numbers, dates of birth, insurance information and other information which reasonable persons generally regard as private and not a customary subject for public discourse, which information or entries have been provided to the City by one complying with regulations requiring the disclosure of such information, shall be excised from copies of City records disclosed or provided to members of the public other than those persons to whom the information of entries pertain. Persons desiring access to information or entries excised from such records may file a supplementary written request with the City Clerk for disclosure of material to be specified in the request, which request should state:
 - a. Whether or not the requesting party has informed persons to whom the requested information pertains of the request; and
 - b. All reasons why the requesting party believes disclosure by the City of the specified information is in the public interest.
2. The City Clerk may afford all interested parties, including the persons to whom the information pertains, a reasonable time within which to comment on the requested disclosure prior to acting further on the request. If an interested person objects to the disclosure of the requested information, the City Clerk may conduct a hearing at which all interested parties may be heard. At such hearing the Clerk shall consider, among such other factors as may be reasonable and relevant:
 - a. The requirements and intent of State law, City ordinances and this policy.

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- b. The legitimate expectations of privacy on the part of interested parties.
- c. The personal, confidential, private or proprietary nature of the information at issue.
- d. Whether the information was obtained by the City under compulsion of law or was freely and voluntarily provided by the persons objecting to the disclosure; and
- e. The public purposes to be served by disclosure of the requested information.

If the City Clerk determines that disclosure is legally required or would otherwise serve the best interests of the public and that such requirements or purpose outweigh the legitimate concerns or interest of the persons to whom the information pertains, the Clerk shall provide the requested information to the requesting party.

3. In addition to or in lieu of the hearing described above, the City Clerk may afford all interested parties a reasonable opportunity to seek judicial review of or relief from the proposed disclosure. The City Clerk may also utilize the procedures for judicial determination and/or opinion solicitation provided in Section 2-142.
4. Records and information that have been closed pursuant to the provisions of this Chapter, Chapter 610, RSMo, and other relevant state and federal laws and regulations are to be treated as confidential by all employees and elected and appointed officials of the City.
 - a. It shall be grounds for disciplinary action for any employee to (1) violate the confidentiality relating to such records or information; (2) copy or remove closed and/or confidential information without the specific consent of the custodian thereof or in the normal course of performing such employee's duties for the City; (3) provide or discuss closed records or confidential information with any person other than as a necessary part of performing such employee's duties for the City, or (4) divulge, discuss or disclose information or records addressed in any closed meeting of a public governmental body, other than as a necessary part of performing such employee's duties for the City.
 - b. Elected and appointed officials are also expected to maintain the same strict standards of confidentiality required of employees. Breach of the confidentiality standards established by this Chapter and required of employees in this Section may be grounds for removal from office or other sanctions as may be deemed appropriate by the body of which such official is a member or by the City Council.

Sec. 2-606. Notices of meetings.

1. Each public governmental body shall give notice of the time, date, place, and tentative agenda of each meeting, 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

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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 at City Hall or other prominent place which is easily accessible to the public and clearly designated for that purpose at the city hall.

The notice shall be given at least twenty-four (24) hours, exclusive of weekends and holidays when the 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.

2. 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.
3. A formally constituted subunit of a parent governmental body may conduct a meeting without notice as required by this Section during a lawful meeting of the parent governmental body, a recess in that meeting, or immediately following that meeting, if the meeting of the subunit is publicly announced at the parent meeting and the subject of the meeting reasonably coincides with the subjects discussed or acted upon by the parent governmental body.
4. A public body shall allow for the recording by audiotape, videotape, or other electronic means of any open meeting. A public body may establish guidelines regarding the manner in which such recording is conducted so as to minimize disruption to the meeting. No audio recording of any meeting, record, or vote closed pursuant to the provisions of section 610.021 R.S.Mo. shall be allowed without permission of the public body; any person who violates this provision shall be guilty of an ordinance violation and punished by imprisonment for a period not to exceed fifteen (15) days, a fine not to exceed Three Hundred Dollars (\$300.00), or by both such fine and imprisonment.

Sec 2-607. Closed meetings, how held.

1. A public governmental body proposing to hold a closed meeting or vote may do so by either:
 - a. Giving notice of same pursuant to the provisions of this Article along with reference to the specific exception allowing such a closed meeting under State law; or
 - b. Upon an affirmative public vote of the majority of a quorum of the public governmental body. The vote of each member of the public governmental body on the question of closing a public meeting or vote and the specific reason for closing that public meeting or vote by reference to the specific exception allowing such a closed meeting under State law shall be announced publicly at an open meeting of the governmental body and entered into the minutes.
2. Any meeting or vote closed pursuant to Section 610.021 RSMo., 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

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session, allowing members of the public to remain to attend any subsequent open session held by the public governmental body following the closed session.

3. In the event any member of a public governmental body makes a motion to close a meeting, or a record, or a vote from the public and any other member believes that such motion, if passed, would cause a meeting, record or vote to be closed from the public in violation of any provision in Chapter 610 RSMo., or this Article such latter member shall state his or her objection to the motion at or before the time the vote is taken on the motion. The public governmental body shall enter in the minutes of the public governmental body any objection made pursuant to this subsection. Any member making such an objection shall be allowed to fully participate in any meeting, record or vote that is closed from the public over the member's objection. In the event the objecting member also voted in opposition to the motion to close the meeting, record or vote at issue, the objection and vote of the member as entered in the minutes shall be an absolute defense to any claim filed against the objecting member pursuant to Chapter 610 RSMo.

Sec. 2-608. Journals of meetings and records of voting.

1. A journal or minutes of open and closed meetings shall be taken and retained by the public governmental body, including, but not limited to, a record of any votes taken at such meeting. The minutes shall include the date, time, place, members present, members absent and a record of any votes taken.
2. All votes by members of a public governmental body at any meeting shall be recorded. 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 body. Any votes taken during a closed meeting shall be taken by roll call and the minutes of the closed meeting, sufficient to reflect the vote pursuant to this Subsection shall be recorded. All votes taken by roll call in meetings of a public governmental body consisting of members who are all elected, except for the Missouri General Assembly and any committee established by a public governmental body, shall be cast by members of the public governmental body who are physically present and in attendance at the meeting. 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.

Sec. 2-609. Accessibility of meetings.

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.

Sec. 2-610. 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

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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.

Sec. 2-611. Custodian designated-response to request for access to records.

1. The City Clerk shall be the custodian of records and will be responsible for maintenance and control of all records. The Chief Administrative Officer may designate deputy custodians in operating departments of the City and such other departments or offices as the Chief Administrative Officer may determine. Deputy custodians shall conduct matters relating to public records and meetings in accord with the policies enumerated herein.
2. Except as otherwise provided by law, the City shall provide access to and, upon request, furnish copies of the City's public records subject to the provisions of the Code of Ordinances relating to copying fees. No person shall remove original public records from the City Hall or from the office of the Custodian of Records without written permission of the Custodian. No public governmental body shall grant to any person or entity, whether by contract, license, or otherwise, the exclusive right to access and disseminate any public record unless the granting of such right is necessary to facilitate coordination with, or uniformity among, industry regulators having similar authority.
3. The Custodian of Records may require persons seeking access to public records to submit such request in writing and/or on a form designated by the Custodian for such purpose. Such written request shall be sufficiently particular to reasonably apprise the Custodian of the records sought.
4. 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. 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.
5. If a request for access is denied, the Custodian of Records 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.
6. 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 subsection shall only apply to messages sent to other 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, however, to the exceptions for closed records as provided by law.

Sec. 2-612. Procedures for resolving questions of public accessibility.

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A public governmental body or record custodian in doubt about the legality of closing a particular meeting, record or vote may, subject to approval by the City Council, bring suit in the Circuit Court for the County of St. Louis to ascertain the propriety of such action. In addition, subject to approval by the City Council, the public governmental body or custodian may seek a formal opinion of the Attorney General or an attorney for the City regarding the propriety of such action. In such events, the proposed closed meeting or public access to the record or vote shall be deferred for a reasonable time pending the outcome of the actions so taken.

Sec. 2-613. Fees

1. The custodian shall charge ten (10) cents per page for a paper copy not larger than nine by fourteen inches, plus an hourly fee for duplicating time not to exceed the average hourly rate of pay for clerical staff of the City. 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 City shall produce the copies using employees of the City 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 City to provide an estimate of the cost to the person requesting the records. The custodian shall receive (or may require) payment prior to duplicating and/or searching for documents.
2. Fees for providing access to public records maintained on computer facilities, recording tapes or disks, video tapes or films, pictures, maps, slides, graphics, illustrations or similar audio or visual items or devices, and for paper copies larger than nine by fourteen inches shall include only the cost of copies, staff time, which shall not exceed the average hourly rate of pay for staff of the City required for making copies and programming, if necessary, and the disk or tape, or other medium used for the duplication. Fees for maps, blueprints, or plats that require special expertise to duplicate may include the actual rate of compensation for the trained personnel required to duplicate such maps, blueprints, or plats. If programming is required beyond the customary and usual level to comply with a request for records or information, the fees for compliance may include the actual costs of such programming.

Secs. 2-614-2-630. Reserved

DIVISION 2. LAW ENFORCEMENT ARREST REPORTS AND RECORDS, INCIDENT REPORTS, ETC.

Sec. 2-631. Definitions

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

1. *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.
2. *ARREST REPORT*: A record of a law enforcement agency of an arrest and of any detention or confinement incident thereto together with the charge therefor.

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3. *INACTIVE*: An investigation in which no further action will be taken by a law enforcement agency or officer for any of the following reasons:
 - a. A decision by the law enforcement agency not to pursue the case.
 - b. Expiration of the time to file criminal charges pursuant to the applicable statute of limitations, or ten (10) years after the commission of the offense, whichever date earliest occurs.
 - c. Finality of the convictions of all persons convicted on the basis of the information contained in the investigative report, by exhaustion of or expiration of all rights of appeal of such persons.
4. *INCIDENT REPORT*: A record of a law enforcement agency consisting of the date, time, specific location, name of the victim and immediate facts and circumstances surrounding the initial report of a crime or incident, including any logs of reported crimes, accidents and complaints maintained by that agency.
5. *INVESTIGATIVE REPORT*: A record, other than an arrest or incident report, prepared by personnel of a law enforcement agency, inquiring into a crime or suspected crime, either in response to an incident report or in response to evidence developed by law enforcement officers in the course of their duties.

Sec. 2-632. Police Department Records

1. 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 (3) of this Section or Section 320.083, RSMo., investigate 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 except as provided in Section 2-154.
2. Except as provided in Subsections (3) and (4) 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 Article.
3. Any person, 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 2-154 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

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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.

4. 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.

Sec. 2-633. Effect of Nolle Pros, dismissal and suspended imposition of sentence on records.

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 that the disposition portion of the record may be accessed except as provided in Section 2-154. 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 2-154.

Sec. 2-634. Public access of closed arrest records

1. Records required to be closed shall not be destroyed; they shall be inaccessible to the general public and to all persons other than the defendant except as provided in this Section and Section 43.507, RSMo. They shall be available to the Sentencing Advisory Commission created in Section 558.019, RSMo., for the purpose of studying sentencing practices, and only to courts, law enforcement agencies, child care agencies, Department of Revenue for driving record purposes, facilities as defined in Section 198.006, RSMo., in-home services provider agencies as defined in Section 660.250, RSMo., the Division of Workers' Compensation for the purposes of determining eligibility for crime victims' compensation pursuant to Sections 595.010 to 595.075, RSMo., and Federal agencies for purposes of prosecution, sentencing, parole consideration, criminal justice employment, child care employment, nursing home employment and to Federal agencies for such investigative purposes as authorized by law or presidential executive order. These records shall be made available for the above purposes regardless of any previous statutory provision which had closed such records to certain agencies or for certain purposes. 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.
2. As used in this Section, the term "*child care*" includes providers and youth services agencies as those terms are defined in Section 43.540, RSMo., elementary and secondary school teachers, and

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elementary and secondary school bus drivers, whether such drivers are employed by a school or an entity which has contracted with the school to provide transportation services.

Sec. 2-635. "911" Telephone Reports.

Excepted 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 2-152. 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.

Sec. 2-636. Daily log or record maintained by police department of crimes, accidents or complaints—public access to certain information

1. The City of Kirkwood 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:
 - a. The time, substance, and location of all complaints or requests for assistance received by the police department;
 - b. The time and nature of the police department's response to all complaints or requests for assistance; and
 - c. If the incident involves an alleged crime or infraction:
 - i. The time, date and location of occurrence;
 - ii. The name and age of any victim, unless the victim is a victim of a crime under Chapter 566, RSMo;
 - iii. The factual circumstances surrounding the incident; and
 - iv. A general description of any injuries, property or weapons involved.

(Ord. No. 9804, §1, 11-6-08)