

## Chapter 100

### GENERAL PROVISIONS

#### ARTICLE I

#### City Incorporation and Seal

##### Section 100.010. Municipal Incorporation. <sup>1</sup>

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

##### Section 100.020. City Seal. [Ord. No. TC4-17 §1, 3-16-1948]

- A. The Seal of the City of Clever shall be a circular disc having the following device: The words "City of Clever, Missouri" in a circle near the outer edge of said disc, also the words "Corporate Seal" in and across the center of said disc. Said Seal shall be one (1) inch and five-eighths ( $\frac{5}{8}$ ) in diameter; and the same is hereby declared to be the common Seal of the City of Clever.
- B. The City Clerk shall be the keeper of the common Seal of the City of Clever, and any impression of said Seal to any contract or other writing shall have no validity or binding obligation upon the City unless such impression be accompanied by the attestation and signature of the City Clerk, and then only in cases authorized by law or the ordinances of this City.

#### ARTICLE II

#### General Code Provisions

##### Section 100.030. Contents of Code.

This Code contains all ordinances of a general and permanent nature of the City of Clever,

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<sup>1</sup>. Editor's Note — In a special election authorized by Ord. No. TC4-3, adopted February 19, 1948 and held in the town of Clever March 13, 1948, a majority of the qualified voters elected that the Village of Clever become a City of the Fourth Class as certified by Ord. No. TC4-4, March 16, 1948.

Missouri, and includes ordinances dealing with municipal administration, municipal elections, building and property regulation, business and occupations, health and sanitation, public order and similar objects.

**Section 100.040. Citation of Code.**

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

**Section 100.050. Official Copies of Code.**

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

**Section 100.060. Altering or Amending Code.**

- A. It shall be unlawful for any person to change or amend by additions or deletions any part or portion of this Code, or to insert or delete pages or portions thereof, or to alter or tamper with such Official Copy of the Code in any manner whatsoever which will cause the law of the City to be misrepresented thereby. Any person, firm or corporation violating this Section shall be punished as provided in Section 100.220 of this Code.
- B. This provision shall not apply to amendments, additions or deletions to this Code, duly passed by the Board of Aldermen, which may be prepared by the City Clerk for insertion in this Code.

**Section 100.070. Numbering of Code.**

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

**Section 100.080. Definitions and Rules of Construction.** [Ord. No. 445 §I, 6-17-2014]

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

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

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

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

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

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

MAY — Is permissive.

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

MONTH — A calendar month.

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

OFFENSE — Shall mean and be the same as ordinance violation and is punishable as provided in Section 100.220 of this Code.

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

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

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

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

PROPERTY — Includes real and personal property.

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

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

SHALL — Is mandatory.

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

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

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

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

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

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

- B. Those definitions set forth in Section 405.050 of this Code as adopted on February 19, 2013, or as hereafter amended, and by this reference incorporated herein.
- C. *Newspaper.* Whenever in this Code or other ordinance of the City it is required that notice be published in the "official newspaper" or a "newspaper of general circulation published in the City", and if there is no newspaper published within the City, the said notice shall be published in a newspaper of general circulation within the City, regardless of its place of publication. Such newspaper shall not include an advertising circular or other medium for which no subscription list is maintained.

**Section 100.090. Words and Phrases — How Construed.**

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

**Section 100.100. Headings.**

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

**Section 100.110. Continuation of Prior Ordinances.**

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

**Section 100.120. Effect of Repeal of Ordinance.**

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

**Section 100.130. Repealing Ordinance Repealed — Former Ordinance Not Revived — When.**

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

**Section 100.140. Severability.**

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

**Section 100.150. Tense.**

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

**Section 100.160. Notice.**

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

**Section 100.170. Notice — Exceptions.**

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

**Section 100.180. Computation of Time.**

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

**Section 100.190. Gender.**

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

**Section 100.200. Joint Authority.**

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

**Section 100.210. Number.**

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

**ARTICLE III  
Penalty**

**Section 100.220. General Penalty.**

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

## **Chapter 105**

### **ELECTIONS**

#### **ARTICLE I Generally**

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

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

##### **Section 105.020. Date of Municipal Election.** [Ord. No. 226 §1, 1-13-1997]

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

##### **Section 105.030. Declaration of Candidacy — Dates for Filing.**

Any person who desires to become a candidate for an elective City office at the general City election shall file with the City Clerk, not prior to the hour of 8:00 A.M. on the sixteenth (16th) Tuesday prior to no later than 5:00 P.M. on the eleventh (11th) Tuesday prior to the next City municipal election, a written declaration of his/her intent to become a candidate at said election. The City Clerk shall keep a permanent record of the names of the candidates, the offices for which they seek election, and the date of their filing, and their names shall appear on the ballots in that order.

##### **Section 105.035. Candidates for Municipal Office — No Arrearage for Municipal Taxes or User**

**Fees Permitted.** <sup>1</sup>

No person shall be a candidate for municipal office unless such person complies with the provisions of Section 115.346, RSMo., regarding payment of municipal taxes or user fees.

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

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

**Section 105.050. Notice of Elections.** [Ord. No. 226 §V, 1-13-1997]

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

ARTICLE II  
**Wards**

**Section 105.060. City to Be Divided Into Two Wards and Voting Precincts — Aldermen Elected — Term.** [Ord. No. 249 §§1 — 3, 6-8-1998]

A. *Wards.*

1. The East Ward shall be all that part of the City of Clever, Missouri, existing east of Clarke Avenue as said avenue now traverses through the said City from the south City limits to the point of intersection with Brown Street and the imaginary line from this point of intersection in a northerly direction to the point where the imaginary line intersects with Highway 14. (Approximately one thousand nine hundred thirty-nine (1,939) feet west of the NE corner of the NE quarter section line pin of Township 27, Range 23, Section 20) (See map on file in the City offices).
2. The West Ward shall be all that part of the City of Clever, Missouri, existing west of Clarke Avenue as said avenue now traverses through the said City from the south City limits to the point of intersection with Brown Street and the imaginary line from this point of intersection in a northerly direction to the point where the imaginary line intersects with Highway 14. (Approximately one thousand nine hundred thirty-nine

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

(1,939) feet west of the NE corner of the NE quarter section line pin of Township 27, Range 23, Section 20) (See map on file in the City offices).

- B. *Holding Office.* Each Alderman now holding office within the existing wards of said City as same existed prior to this Article shall be entitled to hold their respective offices during their elected term of office as a member of the Board of Aldermen and until the successor of each Alderman shall hereafter be duly elected and qualified.
- C. *Term.* At the general election to be held in said City on the first (1st) Tuesday in April, 1999, and in all general elections held in said City thereafter, one (1) Alderman shall be elected from the East Ward established herein and one (1) Alderman shall be elected from the West Ward established herein, with said Alderman to serve a term of two (2) years and until his/her successor is elected and qualified, to the end that beginning with the general election to be held on the first (1st) Tuesday in April, 1999, and at each general election held thereafter, one (1) Alderman shall be elected each year from each of said wards to hold office for a period of two (2) years.

## Chapter 110

### MAYOR AND BOARD OF ALDERMEN

#### ARTICLE I

#### Mayor and Board of Aldermen — Generally

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE II  
**Board of Aldermen Meetings**

**Section 110.170. Regular Meetings — Holidays.** [CC 1981 §2-8; Ord. No. 319 §1, 8-11-2003; Ord. No. 407 §§1 — 2, 3-15-2011]

The regular meetings of the Board of Aldermen shall be on the evening of the third (3rd) Tuesday in each month at 6:30 P.M. If the day fixed for any regular meeting of the Board of Aldermen falls upon a day designated by law as a legal or national holiday, such meeting shall be held the same hour on the next succeeding day not a holiday. The regular meetings of the Board of Aldermen shall be held in the Board's Chambers in City Hall; provided that the Board of Aldermen may adjourn any meeting to such other place as it may deem necessary, desirable or convenient for the holding of its session; provided further, that if such meeting is adjourned to some other place, notice of the place the meeting is being held shall be affixed to the door of the Board's Chambers.

**Section 110.180. Special Meetings.** [CC 1981 §2-9]

The Mayor or two (2) members of the Board of Aldermen may call a special meeting of the Board at any time the same is deemed necessary or proper. Whenever a special meeting shall be called, unless waived, the Mayor and each member of the Board shall be given at least three (3) hours' advance notice of such special meeting.

**Section 110.190. Duty to Attend Meetings.** [CC 1981 §2-10]

It shall be the duty of the Mayor and each member of the Board of Aldermen to be present at each meeting of the Board unless leave of absence is granted or such member is sick and unable to attend.

**Section 110.200. Quorum Must Be Present.**

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

**Section 110.210. Order of Business.** [CC 1981 §2-14]

A. All meetings of the Board of Aldermen shall be open to the public. Promptly at the hour set by ordinance on the day of each regular meeting, the business of the Board shall be taken up for consideration and disposition in the following order:

1. Call to order by Presiding Officer.
2. Approval of minutes of previous meeting.
3. All bills requiring a public hearing.
4. Matters set on the Board's agenda.

5. Report of officers, boards and committees.
6. Unfinished business.
7. New business.
8. Miscellaneous.
9. Adjournment.

**Section 110.220. Robert's Rules of Order.** [CC 1981 §2-15]

Unless otherwise specified, the Board of Aldermen shall be guided in all matters of procedure by that compilation of rules of procedures known as "Robert's Rules of Order".

**ARTICLE III  
Committees**

**Section 110.230. Special Committees.** [CC 1981 §2-17]

All special committees shall be appointed by the Mayor, unless otherwise directed by the Board of Aldermen.

**Section 110.240. Standing Committees.** [CC 1981 §2-18]

The Board of Aldermen shall have such standing committees as it may deem necessary or proper.

## Chapter 115

### CITY OFFICIALS

#### ARTICLE I

#### General Provisions

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

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

##### **Section 115.020. Appointive Officers.** [Ord. No. 77 §1, 10-7-1974]

The Mayor, with the consent and approval of the majority of the members of the Board of Aldermen, shall have power to appoint a City Treasurer, City Attorney, City Assessor, Street Commissioner, Chief of Police and Night Watchman and such other officers as he/she may be authorized by ordinance to appoint, and if deemed for the best interests of the City, the Mayor and Board of Aldermen may, by ordinance, employ special counsel to represent the City, either in a case of a vacancy in the office of City Attorney or to assist the City Attorney, and pay reasonable compensation therefor.

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

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

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

All officers elected to offices or appointed to fill a vacancy in any elective office under the City Government shall be voters under the laws and Constitution of this State and the ordinances of the City except that appointed officers need not be voters of the City. No person shall be elected or appointed to any office who shall at the time be in arrears for any unpaid City taxes or forfeiture or defalcation in office. All officers, except appointed officers, shall be residents of the City.

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

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

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

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

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

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

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

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

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

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

ARTICLE III  
**City Treasurer**

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

The Treasurer shall receive and safely keep all monies, warrants, books, bonds and obligations entrusted to his/her care and shall pay over all monies, bonds or other obligations of the City on warrants or orders duly drawn, passed or ordered by the Board of Aldermen and signed by the Mayor and attested by the City Clerk and having the Seal of the City affixed thereto and not otherwise and shall perform such other duties as may be required of him/her by ordinance. Before entering upon the duties of his/her office, he/she shall give bond in the amount of twenty thousand dollars (\$20,000.00).

ARTICLE IV  
**City Collector**

**Section 115.110. Appointment.**

The Mayor with the approval of a majority of the members of the Board of Aldermen may appoint a City Collector.

**Section 115.120. Duties Generally.**

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

**Section 115.130. Collector to Make Annual Report.**

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

**Section 115.140. Deputy Collector.**

The Mayor may appoint a Deputy Collector to be approved by the Board of Aldermen, and when such Deputy Collector shall have taken and subscribed to the oath provided by this Code, he/she shall possess all the qualifications and powers and be charged with the same duties as the Collector.

ARTICLE V

## **City Attorney**

### **Section 115.150. Appointment — Term.**

- A. The Mayor, with the advice and consent of the Board of Aldermen, at the first (1st) meeting after each annual City election shall appoint a suitable person as City Attorney who shall hold office until his/her successor is appointed and qualified.
- B. *Qualifications.* No person shall be appointed to the office of City Attorney unless he/she be a licensed and practicing attorney at law in this State.

## **ARTICLE VI Miscellaneous Provisions**

### **Section 115.160. Officers to Report Receipts and Expenditures.**

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

### **Section 115.170. Mayor or Board May Inspect Books and Records of Officers.**

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

## Chapter 117

### CONFLICTS OF INTEREST

**Section 117.010. Declaration Of Policy.** [Ord. No. 490, 8-21-2018]

The proper operation of municipal government requires that public officials and employees be independent, impartial and responsible to the people; that government decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, there is hereby established a procedure for disclosure by certain officials and employees of private financial or other interests in matters affecting the City.

**Section 117.020. Conflicts Of Interest.** [Ord. No. 490, 8-21-2018]

The Mayor or any member of the Board of Aldermen who has a substantial personal or private interest, as defined by State law, in any bill shall disclose on the records of the Board of Aldermen the nature of his/her interest and shall disqualify himself/herself from voting on any matters relating to this interest.

**Section 117.030. Disclosure Reports.** [Ord. No. 490, 8-21-2018]

- A. Each elected official, the Chief Administrative Officer, the Chief Purchasing Officer and the general counsel (if employed full-time) shall disclose the following information by May 1 if any such transactions were engaged in 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 in excess of five hundred dollars (\$500.00), if any, that such person had with the political subdivision, other than compensation received as an employee or payment of any tax, fee or penalty due to the political subdivision, and other than transfers for no consideration to the political subdivision; and
  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 (\$500.00), if any, that any business entity in which such person had a substantial interest, had with the political subdivision, other than payment of any tax, fee or penalty due to the political subdivision or transactions involving payment for providing utility service to the political subdivision, and other than transfers for no consideration to the political subdivision.
  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 (\$1,000.00) or more was received during the year covered by the statement;
- b. The name and address of each sole proprietorship that he/she owned; the name, address and the general nature of the business conducted of each general partnership and joint venture in which he/she was a 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.

**Section 117.040. Filing Of Reports.** [Ord. No. 490, 8-21-2018]

The reports, in a format found on file in the City offices, shall be filed with the City Clerk and with the Secretary of State prior to January 1, 1993, and thereafter with the Ethics Commission. The reports shall be available for public inspection and copying during normal business hours.

**Section 117.050. When Filed.** [Ord. No. 490, 8-21-2018]

- A. The financial interest statements shall be filed at the following times, but no person is required to file more than one (1) financial interest statement in any calendar year:
  1. Each person appointed to office shall file the statement within thirty (30) days of such appointment or employment;
  2. Every other 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 Board of Aldermen 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.

## Chapter 120

### OPEN MEETINGS AND RECORDS POLICY

#### ARTICLE I In General

##### Section 120.010. Definitions.

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

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

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

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

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

1. Any advisory committee or commission appointed by the Mayor or Board of Aldermen.
2. Any department or division of the City.
3. Any other legislative or administrative governmental deliberative body under the direction of three (3) or more elected or appointed members having rulemaking or quasi-judicial power.
4. Any committee appointed by or at the direction of any of the entities and which is authorized to report to any of the above-named entities, any advisory committee appointed by or at the direction of any of the named entities for the specific purpose of recommending, directly to the public governmental body's governing board or its Chief Administrative Officer, policy or policy revisions or expenditures of public funds.
5. Any quasi-public governmental body. The term "*quasi-public governmental body*" means any person, corporation or partnership organized or authorized to do business in this State pursuant to the provisions of Chapters 352, 353 or 355, RSMo., or unincorporated association which either:
  - a. Has as its primary purpose to enter into contracts with public governmental bodies or to engage primarily in activities carried out pursuant to an agreement or agreements with public governmental bodies; or

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

**PUBLIC MEETING** — Any meeting of a public governmental body subject to this Chapter at which any public business is discussed, decided or public policy formulated, whether such meeting is conducted in person or by means of communication equipment including, but not limited to, conference call, video conference, Internet chat or Internet message board. The term "*public meeting*" shall not include an informal gathering of members of a public governmental body for ministerial or social purposes when there is no intent to avoid the purposes of this Chapter, but the term shall include a vote of all or a majority of the members of a public governmental body, by electronic communication or any other means, conducted in lieu of holding a public meeting with the members of the public governmental body gathered at one (1) location in order to conduct public business.

**PUBLIC RECORD** — Any record, whether written or electronically stored, retained by or of any public governmental body including any report, survey, memorandum, or other document or study prepared for the public governmental body by a consultant or other professional service paid for in whole or in part by public funds, including records created or maintained by private contractors under an agreement with a public governmental body or on behalf of a public governmental body. The term "*public record*" shall not include any internal memorandum or letter received or prepared by or on behalf of a member of a public governmental body consisting of advice, opinions and recommendations in connection with the deliberative decision-making process of said body, unless such records are retained by the public governmental body or presented at a public meeting. Any documents or study prepared for a public governmental body by a consultant or other professional service as described in this Subdivision shall be retained by the public governmental body in the same manner as any other public record.

**PUBLIC VOTE** — Any vote, whether conducted in person, by telephone, or by any other electronic means, cast at any public meeting of any public governmental body.

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

- A. All meetings, records and votes are open to the public, except that any meeting, record or vote relating to one (1) or more of the following matters, as well as other materials designated elsewhere in this Chapter, shall be closed unless the public governmental body votes to make them public:
  1. Legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives and its attorneys. However, any minutes, vote or settlement agreement relating to legal actions, causes of action or litigation involving a public governmental body or any agent or entity representing its interests or acting on its behalf or with its authority, including any insurance company acting on behalf of a

public governmental body as its insured, shall be made public upon final disposition of the matter voted upon or upon the signing by the parties of the settlement agreement, unless, prior to final disposition, the settlement agreement is ordered closed by a court after a written finding that the adverse impact to a plaintiff or plaintiffs to the action clearly outweighs the public policy considerations of Section 610.011, RSMo., however, the amount of any monies paid by, or on behalf of, the public governmental body shall be disclosed; provided however, in matters involving the exercise of the power of eminent domain, the vote shall be announced or become public immediately following the action on the motion to authorize institution of such a legal action. Legal work product shall be considered a closed record.

2. Leasing, purchase or sale of real estate by a public governmental body where public knowledge of the transaction might adversely affect the legal consideration therefor. However, any minutes or vote or public record approving a contract relating to the leasing, purchase or sale of real estate by a public governmental body shall be made public upon execution of the lease, purchase or sale of the real estate.
3. Hiring, firing, disciplining or promoting of particular employees by a public governmental body when personal information about the employee is discussed or recorded. However, any vote on a final decision, when taken by a public governmental body, to hire, fire, promote or discipline an employee of a public governmental body shall be made available with a record of how each member voted to the public within seventy-two (72) hours of the close of the meeting where such action occurs; provided however, that any employee so affected shall be entitled to prompt notice of such decision during the seventy-two (72) hour period before such decision is made available to the public. As used in this Subsection, the term "*personal information*" means information relating to the performance or merit of individual employees.
4. Non-judicial mental or physical health proceedings involving an identifiable person, including medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment.
5. Testing and examination materials, before the test or examination is given or, if it is to be given again, before so given again.
6. Welfare cases of identifiable individuals.
7. Preparation, including any discussions or work product, on behalf of a public governmental body or its representatives for negotiations with employee groups.
8. Software codes for electronic data processing and documentation thereof.
9. Specifications for competitive bidding, until either the specifications are officially approved by the public governmental body or the specifications are published for bid.
10. Sealed bids and related documents, until the bids are opened; and sealed proposals and related documents or any documents related to a negotiated contract until a contract is executed, or all proposals are rejected.
11. Individually identifiable personnel records, performance ratings or records pertaining

to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries and lengths of service of officers and employees of public agencies once they are employed as such.

12. Records which are protected from disclosure by law.
13. Meetings and public records relating to scientific and technological innovations in which the owner has a proprietary interest.
14. Records relating to municipal hotlines established for the reporting of abuse and wrongdoing.
15. Confidential or privileged communications between a public governmental body and its auditor, including all auditor work product; however, all final audit reports issued by the auditor are to be considered open records pursuant to this Chapter.
16. Operational guidelines and policies developed, adopted or maintained by any public agency responsible for law enforcement, public safety, first response or public health for use in responding to or preventing any critical incident which is or appears to be terrorist in nature and which has the potential to endanger individual or public safety or health. Nothing in this exception shall be deemed to close information regarding expenditures, purchases or contracts made by an agency in implementing these guidelines or policies. When seeking to close information pursuant to this exception, the agency shall affirmatively state in writing that disclosure would impair its ability to protect the safety or health of persons and shall in the same writing state that the public interest in non-disclosure outweighs the public interest in disclosure of the records. This exception shall sunset on December 31, 2012.
17. Existing or proposed security systems and structural plans of real property owned or leased by a public governmental body, and information that is voluntarily submitted by a non-public entity owning or operating an infrastructure to any public governmental body for use by that body to devise plans for protection of that infrastructure, the public disclosure of which would threaten public safety.
  - a. Records related to the procurement of or expenditures relating to security systems purchased with public funds shall be open.
  - b. When seeking to close information pursuant to this exception, the public governmental body shall affirmatively state in writing that disclosure would impair the public governmental body's ability to protect the security or safety of persons or real property and shall in the same writing state that the public interest in non-disclosure outweighs the public interest in disclosure of the records.
  - c. Records that are voluntarily submitted by a non-public entity shall be reviewed by the receiving agency within ninety (90) days of submission to determine if retention of the document is necessary in furtherance of a State security interest. If retention is not necessary, the documents shall be returned to the non-public governmental body or destroyed.
  - d. This exception shall sunset on December 31, 2012.

18. Records that identify the configuration of components or the operation of a computer, computer system, computer network or telecommunications network and would allow unauthorized access to or unlawful disruption of a computer, computer system, computer network or telecommunications network of a public governmental body. This exception shall not be used to limit or deny access to otherwise public records in a file, document, data file or database containing public records. Records related to the procurement of or expenditures relating to such computer, computer system, computer network or telecommunications network, including the amount of monies paid by, or on behalf of, a public governmental body for such computer, computer system, computer network or telecommunications network, shall be open.
19. Credit card numbers, personal identification numbers, digital certificates, physical and virtual keys, access codes or authorization codes that are used to protect the security of electronic transactions between a public governmental body and a person or entity doing business with a public governmental body. Nothing in this Section shall be deemed to close the record of a person or entity using a credit card held in the name of a public governmental body or any record of a transaction made by a person using a credit card or other method of payment for which reimbursement is made by a public governmental body.

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

Any member of a public governmental body who transmits any message relating to public business by electronic means shall also concurrently transmit that message to either the member's public office computer or the custodian of records in the same format. The provisions of this Section shall only apply to messages sent to two (2) or more members of that body so that, when counting the sender, a majority of the body's members are copied. Any such message received by the custodian or at the member's office computer shall be a public record subject to the exception of Section 610.021, RSMo.

**Section 120.040. Notices of Meetings.**

- A. All public governmental bodies shall give notice of the time, date and place of each meeting and its tentative agenda in a manner reasonably calculated to advise the public of the matters to be considered, and if the meeting will be conducted by telephone or other electronic means, the notice of the meeting shall identify the mode by which the meeting will be conducted and the designated location where the public may observe and attend the meeting. If a public body plans to meet by Internet chat, Internet message board or other computer link, it shall post a notice of the meeting on its website in addition to its principal office and shall notify the public how to access that meeting. Reasonable notice shall include making available copies of the notice to any representative of the news media who requests notice of meetings of a particular public governmental body concurrent with the notice being made available to the members of the particular governmental body and posting the notice on a bulletin board or other prominent place which is easily accessible to the public and clearly designated for that purpose at the principal office of the body holding the meeting, or if no such office exists, at the building in which the meeting is to be held.
- B. Notice conforming with all of the requirements of Subsection (A) of this Section shall be

given at least twenty-four (24) hours, exclusive of weekends and holidays when City Hall is closed, prior to the commencement of any meeting of a governmental body unless for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible shall be given.

- C. The City shall allow for the recording by audiotape, videotape or other electronic means of any open meeting. The City may establish guidelines regarding the manner in which such recording is conducted so as to minimize disruption to the meeting. No audio recording of any meeting, record or vote closed pursuant to the provisions of Section 120.020 shall be permitted without permission of the City; any person who violates this provision shall be guilty of an ordinance violation.
- D. Each governmental body proposing to hold a closed meeting or vote shall give notice of the time, date and place of such closed meeting or vote and the reason for holding it by reference to a specific exception allowed pursuant to Section 120.020 hereof. The notice shall be the same as described in Subsection (A) herein.
- E. A formally constituted subunit of a parent governmental body may conduct a meeting without notice during a lawful meeting of the parent governmental body, a recess in that meeting, or immediately following that meeting if the meeting of the subunit is publicly announced at the parent meeting and the subject of the meeting reasonably coincides with the subjects discussed or acted upon by the parent governmental body.

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

- A. Except as set forth in Subsection (D) of Section 120.040, no meeting or vote may be closed without an affirmative public vote of the majority of a quorum of the public governmental body. The vote of each member of the governmental body on the question of closing a public meeting or vote and the specific reason for closing that public meeting or vote by reference to a specific Section of this Chapter shall be announced publicly at an open meeting of the governmental body and entered into the minutes.
- B. Any meeting or vote closed pursuant to Section 120.020 shall be closed only to the extent necessary for the specific reason announced to justify the closed meeting or vote. Public governmental bodies shall not discuss any business in a closed meeting, record or vote which does not directly relate to the specific reason announced to justify the closed meeting or vote. Public governmental bodies holding a closed meeting shall close only an existing portion of the meeting facility necessary to house the members of the public governmental body in the closed session, allowing members of the public to remain to attend any subsequent open session held by the public governmental body following the closed session.

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

- A. Except as provided in Section 120.020, rules authorized pursuant to Article III of the Missouri Constitution and as otherwise provided by law, all votes shall be recorded, and if a roll call is taken, as to attribute each "yea" and "nay" vote, or abstinence if not voting, to the name of the individual member of the public governmental body. Any votes taken during a closed meeting shall be taken by roll call. All public meetings shall be open to the

public and public votes and public records shall be open to the public for inspection and duplication. All votes taken by roll call in meetings of a public governmental body consisting of members who are all elected shall be cast by members of the public governmental body who are physically present and in attendance at the meeting. When it is necessary to take votes by roll call in a meeting of the public governmental body, due to an emergency of the public body, with a quorum of the members of the public body physically present and in attendance and less than a quorum of the members of the public governmental body participating via telephone, facsimile, Internet, or any other voice or electronic means, the nature of the emergency of the public body justifying that departure from the normal requirements shall be stated in the minutes. Where such emergency exists, the votes taken shall be regarded as if all members were physically present and in attendance at the meeting.

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

**Section 120.070. Accessibility of Meetings.**

- A. Each meeting shall be held at a place reasonably accessible to the public and of sufficient size to accommodate the anticipated attendance by members of the public and at a time reasonably convenient to the public unless for good cause such a place or time is impossible or impractical. Every reasonable effort shall be made to grant special access to the meeting to handicapped or disabled individuals.
- B. When it is necessary to hold a meeting on less than twenty-four (24) hours' notice, or at a place that is not reasonably accessible to the public, or at a time that is not reasonably convenient to the public, the nature of the good cause justifying that departure from the normal requirements shall be stated in the minutes.

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

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

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

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

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

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

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

- A. Except as otherwise provided by law, each public governmental body shall provide access to and, upon request, furnish copies of public records subject to the following:
  - 1. Fees for copying public records, except those records restricted under Section 32.091, RSMo., shall not exceed ten cents (\$.10) per page for a paper copy not larger than nine (9) by fourteen (14) inches, with the hourly fee for duplicating time not to exceed the average hourly rate of pay for clerical staff of the public governmental body. Research time required for fulfilling records requests may be charged at the actual cost of research time. Based on the scope of the request, the public governmental body shall produce the copies using employees of the body that result in the lowest amount of charges for search, research and duplication time. Prior to producing copies of the requested records, the person requesting the records may request the public governmental body to provide an estimate of the cost to the person requesting the records. Documents may be furnished without charge or at a reduced charge when the public governmental body determines that waiver or reduction of the fee is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the public governmental body and is not primarily in the commercial interest of the requester.
  - 2. Fees for providing access to public records maintained on computer facilities,

recording tapes or disks, videotapes or films, pictures, maps, slides, graphics, illustrations or similar audio or visual items or devices, and for paper copies larger than nine (9) by fourteen (14) inches shall include only the cost of copies, staff time, which shall not exceed the average hourly rate of pay for staff of the public governmental body required for making copies and programming, if necessary, and the cost of the disk, tape or other medium used for the duplication. Fees for maps, blueprints or plats that require special expertise to duplicate may include the actual rate of compensation for the trained personnel required to duplicate such maps, blueprints or plats. If programming is required beyond the customary and usual level to comply with a request for records or information, the fees for compliance may include the actual cost of such programming.

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

## ARTICLE II

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

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

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

**ARREST** — An actual restraint of the person of the defendant, or by his/her submission to the custody of the officer, under authority of a warrant or otherwise for a criminal violation which results in the issuance of a summons or the person being booked.

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

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

1. A decision by the law enforcement agency not to pursue the case.
2. Expiration of the time to file criminal charges pursuant to the applicable statute of limitations or ten (10) years after the commission of the offense, whichever date earliest occurs.
3. Finality of the convictions of all persons convicted on the basis of the information contained in the investigative report, by exhaustion of or expiration of all rights of appeal of such persons.

**INCIDENT REPORT** — A record of a law enforcement agency consisting of the date, time, specific location, name of the victim, and immediate facts and circumstances surrounding the initial report of a crime or incident, including any logs of reported crimes, accidents and complaints maintained by that agency.

**INVESTIGATIVE REPORT** — A record, other than an arrest or incident report, prepared by personnel of a law enforcement agency inquiring into a crime or suspected crime either in response to an incident report or in response to evidence developed by Law Enforcement Officers in the course of their duties.

**Section 120.120. Police Department Records.**

- A. The Police Department of the City shall maintain records of all incidents reported to the Police Department and investigations and arrests made by the Police Department. All incident reports and arrest reports shall be open records. Notwithstanding any other provision of law other than the provisions of Subsection (C) of this Section or Section 320.083, RSMo., investigative reports of the Police Department are closed records until the investigation becomes inactive. If any person is arrested and not charged with an offense against the law within thirty (30) days of the person's arrest, the arrest report shall thereafter be a closed record except that the disposition portion of the record may be accessed and except as provided in Section 120.140.
- B. Except as provided in Subsections (C) and (D) of this Section, if any portion of a record or document of a Police Department Officer or the Police Department, other than an arrest report which would otherwise be open, contains information that is reasonably likely to pose a clear and present danger to the safety of any victim, witness, undercover officer or other person; or jeopardize a criminal investigation, including records which would disclose the identity of a source wishing to remain confidential or a suspect not in custody; or which would disclose techniques, procedures or guidelines for Police Department investigations or prosecutions, that portion of the record shall be closed and shall be redacted from any record made available pursuant to this Chapter.
- C. Any person, a family member of such person within the first degree of consanguinity of such person if deceased or incompetent, attorney for a person or insurer of a person involved in any incident or whose property is involved in an incident may obtain any records closed pursuant to this Section or Section 120.140 for purposes of investigation of any civil claim or defense as provided by this Subsection. Any individual, his/her attorney or insurer involved in an incident or whose property is involved in an incident, upon written request, may obtain a complete unaltered and unedited incident report concerning the incident and may obtain access to other records closed by the Police Department pursuant to this Section. Within thirty (30) days of such request, the Police Department shall provide the requested material or file a motion pursuant to this Subsection with the Circuit Court having jurisdiction over the Police Department stating that the safety of the victim, witness or other individual cannot be reasonably ensured, or that a criminal investigation is likely to be jeopardized. Pursuant to Section 610.100(4), RSMo., if, based on such motion, the court finds for the Police Department, the court shall either order the record closed or order such portion of the record that should be closed to be redacted from any record made available pursuant to this Subsection.
- D. Any person may apply pursuant to this Subsection to the Circuit Court having jurisdiction for an order requiring a Law Enforcement Agency to open incident reports and arrest reports being unlawfully closed pursuant to the Section. If the court finds by a preponderance of the evidence that the Law Enforcement Officer or Agency has knowingly violated this Section, the officer or agency shall be subject to a civil penalty in an amount up to one thousand dollars (\$1,000.00). If the court finds that there is a knowing violation of this Section, the court may order payment by such officer or agency of all costs and attorneys' fees as provided by Section 610.027, RSMo. If the court finds by a preponderance of the evidence that the Law Enforcement Officer or Agency has purposely

violated this Section, the officer or agency shall be subject to a civil penalty in an amount up to five thousand dollars (\$5,000.00) and the court shall order payment by such officer or agency of all costs and attorney fees as provided in Section 610.027, RSMo. The court shall determine the amount of the penalty by taking into account the size of the jurisdiction, the seriousness of the offense, and whether the Law Enforcement Officer or Agency has violated this Section previously.

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

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

- A. If the person arrested is charged but the case is subsequently nolle prossed, dismissed, or the accused is found not guilty, or imposition of sentence is suspended in the court in which the action is prosecuted, official records pertaining to the case shall thereafter be closed records when such case is finally terminated, except as provided in Subsection (B) of this Section and Section 120.140 and except that the court's judgment or order or the final action taken by the prosecutor in such matters may be accessed. If the accused is found not guilty due to mental disease or defect pursuant to Section 552.030, RSMo., official records pertaining to the case shall thereafter be closed records upon such findings, except that the disposition may be accessed only by law enforcement agencies, child care agencies, facilities as defined in Section 198.006, RSMo., and in-home services provider agencies as defined in Section 660.250, RSMo., in the manner established by Section 120.140.
- B. If the person arrested is charged with an offense found in Chapter 566, RSMo., Sections 568.045, 568.050, 568.060, 568.065, 568.080, 568.090 or 568.175, RSMo., and an imposition of sentence is suspended in the court in which the action is prosecuted, the official records pertaining to the case shall be made available to the victim for the purpose of using the records in his/her own judicial proceeding or if the victim is a minor to the victim's parents or guardian, upon request.

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

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

Department of Revenue for driver license administration; the Division of Workers' Compensation for the purposes of determining eligibility for crime victims' compensation pursuant to Sections 595.010 to 595.075, RSMo.; Department of Health and Senior Services for the purpose of licensing and regulating facilities and regulating in-home services provider agencies and Federal agencies for purposes of criminal justice administration, criminal justice employment, child, elderly or disabled care, and for such investigative purposes as authorized by law or presidential executive order.

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

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

Except as provided by this Section, any information acquired by the Police Department by way of a complaint or report of a crime made by telephone contact using the emergency number "911" shall be inaccessible to the general public. However, information consisting of the date, time, specific location, and immediate facts and circumstances surrounding the initial report of the crime or incident shall be considered to be an incident report and subject to Section 120.120. Any closed records pursuant to this Section shall be available upon request by law enforcement agencies or the Division of Workers' Compensation or pursuant to a valid court order authorizing disclosure upon motion and good cause shown.

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

- A. The City of Clever Police Department, if it maintains a daily log or record that lists suspected crimes, accidents or complaints, shall make available the following information for inspection and copying by the public:
1. The time, substance and location of all complaints or requests for assistance received by the Police Department;
  2. The time and nature of the Police Department's response to all complaints or requests for assistance; and
  3. If the incident involves an alleged offense or infraction:
    - a. The time, date and location of occurrence;
    - b. The name and age of any victim, unless the victim is a victim of a crime under

Chapter 566, RSMo.;

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

## Chapter 125

### MUNICIPAL COURT

#### ARTICLE I

#### General Provisions

##### **Section 125.010. Court Established.**

There is hereby established in the City of Clever a Municipal Court to be known as the "Clever Municipal Court, a Division of the 38th Judicial Circuit Court of the State of Missouri". In the event a Police Court existed prior to the establishment of a Municipal Court, this Court is a continuation of the Police Court of the City as previously established and is termed herein "The Municipal Court".

##### **Section 125.020. Jurisdiction.**

Violations of municipal ordinances shall be heard and determined only before Divisions of the Circuit Court as hereinafter provided in this Chapter. "*Heard and determined*", for purposes of this Chapter, shall mean any process under which the court in question retains the final authority to make factual determinations pertaining to allegations of a municipal ordinance violation.

##### **Section 125.030. Selection of Municipal Judge.**

The Judge of the City's Municipal Court shall be known as a Municipal Judge of the 38th Judicial Circuit Court and shall be selected by appointment to the position by the Mayor with approval of a majority of the members of the Board of Aldermen for a term as specified herein.

##### **Section 125.040. Municipal Judge — Term of Office.**

The Municipal Judge shall hold his/her office for a period of at least two (2) years. If for any reason a Municipal Judge vacates his/her office, his/her successor shall complete that term of office, even if the same be for less than two (2) years.

##### **Section 125.050. Municipal Judge — Vacation of Office.**

- A. The Municipal Judge shall vacate his/her office under the following conditions:
1. Upon removal from office by the State Commission on the Retirement, Removal and Discipline of Judges as provided in Missouri Supreme Court Rule 12;
  2. Upon attaining his/her seventy-fifth (75th) birthday; or
  3. If he/she should lose his/her license to practice law within the State of Missouri.

**Section 125.060. Municipal Judge — Qualifications for Office.**

- A. The Municipal Judge shall possess the following qualifications before he/she shall take office:
1. He/she must be a licensed attorney, qualified to practice law within the State of Missouri.
  2. He/she need not reside within the City.
  3. He/she must be a resident of the State of Missouri.
  4. He/she must be between the ages of twenty-one (21) and seventy-five (75) years.
  5. He/she may serve as a Municipal Judge for any other municipality.
  6. He/she may not hold any other office within the City Government.
  7. The Municipal Judge shall be considered holding a part-time position and as such may accept other employment.

**Section 125.070. Superintending Authority.**

The Municipal Court of the City shall be subject to the rules of the Circuit Court of which it is a part and to the rules of the State Supreme Court. The Municipal Court shall be subject to the general administrative authority of the Presiding Judge of the Circuit Court, and the Judge and Court personnel of said Court shall obey his/her directives.

**Section 125.080. Report to Board of Aldermen.**

The Municipal Judge shall cause the Court Clerk to prepare, within the first ten (10) days of every month, a report indicating the following:

A list of all cases heard or tried before the Judge during the preceding month, giving in each case the name of the defendant, the fine imposed if any, the amount of costs, the names of defendants committed, and the cases in which there was an application for trial de novo, respectively. The Court Clerk or the Judge shall verify such lists and statements by affidavit and shall file the same with the City Clerk who shall lay the same before the Board of Aldermen of the City for examination at its first (1st) session thereafter. The Municipal Court shall, within the ten (10) days after the first (1st) of the month, pay to the Municipal Treasurer the full amount of all fines collected during the preceding month, if not previously paid to the Municipal Treasurer.

**Section 125.090. Docket and Court Records.**

The Municipal Judge shall be a conservator of the peace. He/she shall keep a docket in which he/she shall enter every case commenced before him/her and the proceedings therein and he/she shall keep such other records as may be required. Such docket and records shall be records of the Circuit Court of Christian County. The Municipal Judge shall deliver said docket, records and all books and papers pertaining to his/her office to his/her successor in office or to the Presiding Judge of the Circuit.

**Section 125.100. Municipal Judge — Powers and Duties Generally.**

A. The Municipal Judge shall be and is hereby authorized to:

1. Establish a Violations Bureau as provided for in the Missouri Rules of Practice and Procedure in Municipal and Traffic Courts and Section 479.050, RSMo.
2. Administer oaths and enforce due obedience to all orders, rules and judgments made by him/her and may fine and imprison for contempt committed before him/her while holding Court in the same manner and to the same extent as a Circuit Judge.
3. Stay execution of any fine or sentence, suspend any fine or sentence, and make such other orders as the Municipal Judge deems necessary relative to any matter that may be pending in the Municipal Court.
4. Make and adopt such rules of practice and procedure as are necessary to implement and carry out the provisions of this Chapter, and to make and adopt such rules of practice and procedure as are necessary to hear and decide matters pending before the Municipal Court, and to implement and carry out the provisions of the Missouri Rules of Practice and Procedure in Municipal and Traffic Courts.
5. The Municipal Judge shall have such other powers, duties and privileges as are or may be prescribed by the laws of this State, this Code or other ordinances of this City.

**Section 125.110. Prosecutions Based on Information Only, Proceedings.**

All prosecutions for the violation of municipal ordinances shall be instituted by information and may be based upon a complaint. Proceedings shall be in accordance with the Supreme Court rules governing practice and procedure in proceedings before Municipal Judges.

**Section 125.120. Violations Bureau.**

Should the Municipal Judge determine that there shall be a Violations Bureau, the City shall provide all expenses incident to the operation of the same.

**Section 125.130. Issuance and Execution of Warrants.**

All warrants issued by a Municipal Judge shall be directed to the Chief of Police or any other Police Officer of the municipality or to the Sheriff of the County. The warrants shall be executed by the Chief of Police, Police Officer or Sheriff at any place within the limits of the County and not elsewhere, unless the warrants are endorsed in the manner provided for warrants in criminal cases and, when so endorsed, shall be served in other Counties as provided for in warrants in criminal cases.

**Section 125.140. Arrests Without Warrants.**

The Chief of Police or other Police Officer of the City may, without a warrant, make arrest of any person who commits an offense in his/her presence, but such officer shall, before the trial, file a written complaint with the Judge hearing violations of municipal ordinances.

**Section 125.150. Jury Trials.**

Any person charged with a violation of a municipal ordinance of this City shall be entitled to a trial by jury as in prosecutions for misdemeanors before an Associate Circuit Court Judge. Whenever a defendant accused of a violation of a municipal ordinance has a right to and demands such trial by jury, the Municipal Court shall certify the case to the Presiding Judge of the Circuit Court for reassignment.

**Section 125.160. Duties of the City's Prosecuting Attorney.**

It shall be the duty of an attorney designated by the City to prosecute the violations of the City's ordinances before the Municipal Judge or before any Circuit Judge hearing violations of the City's ordinances. The salary or fees of the attorney and his/her necessary expenses incurred in such prosecutions shall be paid by the City. The compensation of such attorney shall not be contingent upon the number of cases tried, the number of guilty verdicts reached, or the amount of fines imposed or collected.

**Section 125.170. Summoning of Witnesses.**

It shall be the duty of the Municipal Judge to summon all persons whose testimony may be deemed essential as witnesses at the trial and to enforce their attendance by attachment, if necessary. The fees of witnesses shall be the same as those fixed for witnesses in trials before Associate Circuit Court Judges and shall be taxed as other costs in the case. When a trial shall be continued by a Municipal Judge, it shall not be necessary to summon any witnesses who may be present at the continuance, but the Municipal Judge shall orally notify such witnesses as either party may require to attend before him/her on the day set for trial to testify in the case and enter the names of such witnesses on his/her docket, which oral notice shall be valid as a summons.

**Section 125.180. Transfer of Complaint to Associate Circuit Judge.**

If, in the progress of any trial before the Municipal Judge, it shall appear to the Judge that the accused ought to be put upon trial for an offense against the criminal laws of the State and not cognizable before him/her as Municipal Judge, he/she shall immediately stop all further proceedings before him/her as Municipal Judge and cause the complaint to be made before some Associate Circuit Court Judge of the County.

**Section 125.190. Jailing of Defendants.**

If, in the opinion of the Municipal Judge, the City has no suitable and safe place of confinement, the Municipal Judge may commit the defendant to the County Jail, and it shall be the duty of the Sheriff, if space for the prisoner is available in the County Jail, upon receipt of a warrant of commitment from the Judge to receive and safely keep such prisoner until discharged by due process of law. The municipality shall pay the board of such prisoner at the same rate as may now or hereafter be allowed by law to such Sheriff for the keeping of other prisoners in his/her custody. The same shall be taxed as cost.

**Section 125.200. Parole and Probation.**

A. Any Judge hearing violations of municipal ordinances may, when in his/her judgment it

may seem advisable, grant a parole or probation to any person who shall plead guilty or who shall be convicted after a trial before such Judge. When a person is placed on probation, he/she shall be given a certificate explicitly stating the conditions on which he/she is being released.

- B. In addition to such other authority as exists to order conditions of probation, the Court may order conditions which the Court believes will serve to compensate the victim of the crime, any dependent of the victim, or society in general. Such conditions may include, but need not be limited to:
  - 1. Restitution to the victim or any dependent of the victim in an amount to be determined by the Judge; and
  - 2. The performance of a designated amount of free work for a public or charitable purpose or purposes as determined by the Judge.
- C. A person may refuse probation conditioned on the performance of free work. If he/she does so, the Court shall decide the extent or duration of sentence or other disposition to be imposed and render judgment accordingly. Any County, City, person, organization or agency or employee of a County, City, organization or agency charged with the supervision of such free work or who benefits from its performance shall be immune from any suit by the person placed on parole or probation or any person deriving a cause of action from him/her if such cause of action arises from such supervision of performance, except for intentional torts or gross negligence. The services performed by the probationer or parolee shall not be deemed employment within the meaning of the provisions of Chapter 288, RSMo.
- D. The Court may modify or enlarge the conditions of probation at any time prior to the expiration or termination of the probation term.

**Section 125.210. Right of Appeal.**

In any case tried before the Municipal Judge, except where there has been a plea of guilty or where the case has been tried with a jury, the defendant shall have a right of trial de novo before a Circuit Court Judge or upon assignment before an Associate Circuit Court Judge. An application for a trial de novo shall be filed within ten (10) days after judgment and shall be filed in such form and perfected in such manner as provided by Supreme Court rule.

**Section 125.220. Appeal From Jury Verdicts.**

In any case tried with a jury before an Associate Circuit Judge, a record of the proceedings shall be made, and appeals may be had upon that record to the appropriate Appellate Court.

**Section 125.230. Breach of Recognizance.**

In the case of a breach of any recognizance entered into before a Municipal Judge or an Associate Circuit Court Judge hearing a municipal ordinance violation case, the same shall be deemed forfeited and the Judge shall cause the same to be prosecuted against the principal and surety, or either of them, in the name of the municipality as plaintiff. Such action shall be prosecuted before a Circuit Court Judge or Associate Circuit Court Judge, and in the event of

cases caused to be prosecuted by a Municipal Judge, such shall be on the transcript of the proceedings before the Municipal Judge. All monies recovered in such actions shall be paid over to Municipal Treasury to the General Revenue Fund of the municipality.

**Section 125.240. Disqualification of Municipal Judge From Hearing a Particular Case.**

A Municipal Judge shall be disqualified to hear any case in which he/she is in any way interested or, if before the trial is commenced, the defendant or the prosecutor files an affidavit that the defendant or the municipality, as the case may be, cannot have a fair and impartial trial by reason of the interest or prejudice of the Judge. Neither the defendant nor the municipality shall be entitled to file more than one (1) affidavit or disqualification in the same case.

**Section 125.250. Absence of Judge — Procedure.**

If a Municipal Judge be absent, sick or disqualified from acting pursuant to the general administrative authority of the Presiding Judge of the Circuit Court over the Municipal Divisions within the Circuit contained in Section 478.240, RSMo., a special Municipal Judge may be designated in accordance with the provisions of Section 479.230, RSMo., until such absence or disqualification shall cease.

**Section 125.260. Failure to Appear in Municipal Court.**

- A. A person commits the offense of failure to appear in Municipal Court if:
1. He/she has been issued a summons for a violation of any ordinance of the City of Clever and fails to appear before the Judge of the Municipal Court at the time and on the date on which he/she was summoned, or at the time or on the date to which the case was continued;
  2. He/she has been released upon recognition of bond and fails to appear before the Judge of the Municipal Court at the time and on the date on which he/she was summoned, or at the time or on the date to which the case was continued;
  3. He/she has been placed on Court supervised probation and fails to appear before the Judge of the Municipal Court at the time specified by said Judge as a condition of the probation.
- B. Nothing in this Section shall prevent the exercise of the Municipal Court of its power to punish for contempt.

**ARTICLE II  
Court Clerk**

**Section 125.270. Office Established.**

There is hereby established the office of Court Clerk for the City of Clever Municipal Division of the Christian County Circuit Court.

**Section 125.280. Selection and Term of Court Clerk.**

The Court Clerk shall be appointed by the Mayor with the consent of a majority of the members of the Board of Aldermen to serve for an unspecified term at the will of the Mayor and Board of Aldermen.

**Section 125.290. Hours and Authorization of Compensation.**

The Court Clerk shall attend all sessions of the Clever Municipal Division of the 38th Judicial Circuit Court and may be required to be present at the Clever City Hall to perform the duties of the office at such additional times as the Mayor or Board of Aldermen may specify. Compensation for the Court Clerk shall be established by ordinance from time to time.

**Section 125.300. Bond.**

Within fifteen (15) days after appointment and before entering upon the discharge of the above-described duties of office, the Court Clerk shall give bond to the City in the sum of twenty thousand dollars (\$20,000.00) conditioned upon the faithful performance of said duties and the said Court Clerk will pay over all monies belonging to the City, as provided by law, that may come into the Court Clerk's hands.

ARTICLE III  
**Fines and Court Costs**

**Section 125.310. Installment Payment of Fine.**

When a fine is assessed for violation of an ordinance, it shall be within the discretion of the Judge assessing the fine to provide for the payment of the fine on an installment basis under such terms and conditions as he/she may deem appropriate.

**Section 125.320. Court Costs.** [Ord. No. 393 §1, 2-9-2009; Ord. No. 454 §1, 1-20-2015]

- A. In addition to any fine that may be imposed by the Municipal Judge in any case filed in the Clever Municipal Division of the 38th Judicial Circuit Court, and in addition to all other fees authorized or required by law, there shall be assessed as costs the following:
1. Costs of court in the amount of twelve dollars (\$12.00);
  2. *Police Officer training fee.* A fee of three dollars (\$3.00) is hereby established and assessed as additional Court costs in each Court proceeding, except that no such fee shall be collected when the proceedings against the defendant have been dismissed.
    - a. Two dollars (\$2.00) of each such Court cost shall be transmitted monthly and used to pay for Police Officer training as provided by Sections 590.100 to 590.180, RSMo.
    - b. One dollar (\$1.00) of each such Court cost shall be sent to the State Treasury to the credit of the Peace Officers Standards and Training Commission Fund (POST) created by Section 590.178, RSMo.
  3. *Crime Victims' Compensation Fund.* An additional sum of seven dollars fifty cents (\$7.50) shall be assessed and added to the basic costs, except that no such fee shall be collected when the proceedings against the defendant have been dismissed.

- a. Ninety-five percent (95%) of such fees shall be paid to the Director of Revenue of the State of Missouri (DOR) for deposit as provided in Section 595.045.5, RSMo.
  - b. Five percent (5%) shall be paid to the City's General Fund.
4. *Court automation fee.* In every proceeding filed in the Municipal Court for violation of an ordinance, a surcharge of seven dollars (\$7.00) shall be assessed. Such surcharge shall also be assessed in cases in which pleas of guilty are processed in the Traffic Violation Bureau or General Violations Bureau. No such fee shall be collected when the proceedings against the defendant have been dismissed. Such surcharge shall be collected and transmitted monthly to the General Fund. Funds collected under this Subsection shall be used by the City only to pay the Missouri Director of Revenue to the credit of the Missouri Statewide Court Automation Fund as provided by Sections 488.012.3(5) and 488.027.2, RSMo.
5. *Inmate Prisoner Detainee Security Fund.* In every proceeding filed in the Municipal Court for violation of an ordinance, a surcharge of two dollars (\$2.00) shall be assessed. Such surcharge shall also be assessed in cases in which pleas of guilty are processed in the Traffic Violation Bureau or General Violations Bureau. No such fee shall be collected when the proceedings against the defendant have been dismissed. Funds collected under this Subsection shall be used by the City only to pay the Christian County Sheriff, who shall deposit such funds generated by the surcharge into the Inmate Prisoner Detainee Security Fund provided by Section 488.5026, RSMo. This surcharge shall then allow the Christian County Sheriff to adjust the forty-five dollars (\$45.00) per diem so that the municipality shall be charged a per diem in an amount equal to the State rate calculated under subsection 1 and 3 of Section 221.105, RSMo., which the State of Missouri pays Christian County for the incarceration of prisoners in the County Jail on State charges.
6. Other costs, such as for the issuance of a warrant, a commitment or a summons, as provided before the Municipal Court Judge.
7. Actual costs assessed against the City by the County Sheriff for apprehension or confinement in the County Jail or costs assessed against the City by any other detention facility.
8. Mileage, in the same amount as provided to the Sheriff in criminal violations, for each mile and fraction thereof the officer must travel (both directions) in order to serve any warrant or commitment or order of this Court.
9. Any other reasonable cost as may be otherwise provided by ordinance, including, but not limited to, cost of confinement, including any necessary transportation related thereto, medical costs incurred by the City while a defendant is in City custody, and costs related to the arrest and testing of any person for any intoxication-related traffic offense as set out in Subsection (A)(9) hereof.
10. *Reimbursement of certain costs of arrest.*
  - a. Upon a plea or a finding of guilty of violating the provision of any ordinance of

the City of Clever involving alcohol- or drug-related traffic offenses, the Court may, in addition to imposition of any penalties provided by law, order the convicted person to reimburse the Police Department for the costs associated with such arrest.

- b. Such costs hereby authorized shall include the reasonable cost of making the arrest, including the cost of any chemical test made as authorized or required by law or ordinance to determine the alcohol or drug content of the person's blood, and the costs of processing, charging, booking and holding such person in custody.
- c. The Chief of Police may establish a schedule of such costs hereby authorized and shall submit the same to the Municipal Judge. However, the Court may order the costs reduced if it determines that the costs are excessive.
- d. Upon receipt of such additional costs authorized by the Subsection, the City Clerk shall retain such costs to be used by the Police Department to enhance and support the enforcement and prosecution of alcohol- and drug-related traffic laws within the City.

**Section 125.330. (Reserved) <sup>1</sup>**

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<sup>1</sup>. Editor's Note — Ord. no. 423 §1, adopted August 22, 2012, repealed section 125.330 "certain payment not accepted" in its entirety. Former section 125.330 derived from ord. no. 331, 1-11-05.

## **Chapter 130**

### **TAXATION AND FINANCE**

#### **ARTICLE I**

##### **Fiscal Year**

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

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

#### **ARTICLE II**

##### **Budget**

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

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

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

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

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

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

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

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

**ARTICLE III  
Levy of Taxes**

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

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

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

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

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

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

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

**Section 130.090. Assessment – Method of.**

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

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

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

**Section 130.110. Taxes Delinquent – When.**

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

ARTICLE IV  
**Sales Tax**

**Section 130.120. One Percent Sales Tax.** [Ord. No. 155 §1, 1-30-1989]

*Imposition Of City Sales Tax.* Pursuant to the authority granted by and subject to the provisions of Sections 94.500 to 95.570, RSMo., a tax for general revenue purposes is hereby imposed upon all sellers for the privilege of engaging in the business of selling tangible personal property or rendering taxable services at retail to the extent and in the manner provided in Sections 144.010 to 144.510, RSMo., but including residential utilities and the rules and regulations of the Director of Revenue issued pursuant thereto. The rate of the tax shall be one percent (1%) on the receipts from the sale at retail of all tangible personal property or taxable services at retail within Clever, Missouri, if such property and taxable services are subject to taxation by the State of Missouri under the provisions of Sections 144.010 to 144.510, RSMo., but including residential utilities. The tax shall become effective as provided in Subsection (4) of Section 94.510, RSMo., and shall be collected pursuant to the provisions of Sections 94.500 to 94.570, RSMo.

**Section 130.125. Sales Tax on Utilities.** [Ord. No. 156 §§1 – 2, 4-9-1989]

- A. *Municipal Sales Tax.* The municipal sales tax on all sales of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil used for non-business, non-commercial or non-industrial purposes heretofore imposed within the corporate limits of this municipality is hereby reimposed.
- B. *Rate.* The rate of taxation shall be, as heretofore, one percent (1%).

**Section 130.130. Personal Property Tax.** [Ord. No. 227 §§1 – 2, 12-9-1996]

- A. *Use Tax.* Pursuant to the authority granted by and subject to the provisions of Sections 144.600 through 144.763, RSMo., a use tax for general revenue purposes is imposed for the privilege of storing, using or consuming within the City any article of tangible personal property. This tax does not apply with respect to the storage, use or consumption of any article of tangible personal property purchased, produced or manufactured outside this State until the transportation of the article has finally come to rest within this City or until the article has become commingled with the general mass of property of this City.

- B. *Rate.* The rate of the tax shall be one percent (1%). If any City sales tax is repealed or the rate thereof is reduced or raised by voter approval, the City use tax rate shall also be deemed to be repealed, reduced or raised by the same action repealing, reducing or raising the City sales tax.

**Section 130.135. Transportation Sales Tax.** <sup>1</sup> [Ord. No. 441 §1, 11-19-2013]

- A. The City of Clever, Missouri, shall be authorized to impose a sales tax of three-eighths of one percent (3/8 of 1%) for transportation purposes to provide funding, including, without limitation, for construction, reconstruction, repair and maintenance of streets and roads in the City of Clever, Missouri, and, if necessary, the acquisition of rights-of-way.
- B. The authorization of said sales tax will authorize the levy and collection of a sales tax in addition to the other taxes provided for by law, on all retail sales made in such City which are subject to taxation under the provisions of Sections 144.010 to 144.525, inclusive, RSMo., the Sales Tax Law, as amended.

**Section 130.137. Local Use Tax.** [Ord. No. 489, 8-21-2018; Ord. No. 493, 11-13-2018<sup>2</sup>]

- A. Pursuant to the authority granted by, and subject to, the provisions of Sections 144.600 through 144.761, RSMo., a use tax for general revenue purposes is imposed for the privilege of storing, using or consuming within the City any article of tangible personal property. This tax does not apply with respect to the storage, use or consumption of any article of tangible personal property purchased, produced or manufactured outside this State until the transportation of the article has finally come to rest within this City or until the article has become commingled with the general mass of property of this City.
- B. The rate of the tax shall be 1.875 percent (1.875%). If any City sales tax is repealed or the rate thereof is reduced or raised by voter approval, the City use tax rate also shall be deemed to be repealed, reduced or raised by the same action repealing, reducing or raising the City sales tax.

ARTICLE V  
**Investment Policy**

**Section 130.140. Investment Policy for Funds.** [Ord. No. 426 §§II – VI, 1-18-2013]

- A. *Purpose.* The purpose of this investment policy is to establish the guidelines and requirements for the investing of all City revenue funds.
- B. *Objectives.* The primary objectives, in priority order, of investment of activities shall be safety, liquidity, and yield.
1. *Safety.* Safety of principal is the foremost objective of the investment program. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. The objective will be to mitigate interest rate risk,

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1. Editor's Note: The transportation sales tax was approved by a majority of the qualified voters at a special election held 4-8-2014.  
2. Editor's Note: This tax passed by a majority of the electorate on November 6, 2018.

custodial risk, and market risk.

- a. *Interest rate risk.* The City of Clever will minimize the risk that the market value of investments will fall due to changes in general interest rates by:
    - (1) Structuring investments so that securities mature to meet cash requirements for ongoing operations, thereby avoiding the need to sell securities on the open market prior to maturity; and
    - (2) Investing operating funds primarily in shorter-term securities.
  - b. *Custodial risk.* The City of Clever shall have a depository contract and pledge agreement with each safekeeping bank that will comply with the Financial Institutions, Reform, Recovery, and Enforcement Act of 1989 (FIRREA). This will ensure that the City's security interest in collateral pledged to secure deposits is enforceable against the receiver of a failed financial institution.
  - c. *Market risk.* The City shall comply with State Statute as to the types of investments that will be made. The standard investment type will be Collateralized Public Deposits (Certificates of Deposit) but can also include United States Treasury Securities, United States Agency Securities, and others as allowed by State Statute.
2. *Liquidity.* The investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated. This is accomplished by structuring the portfolio so that securities mature concurrent with cash needs to meet anticipated demands.
  3. *Yield.* The investment portfolio shall be designed with the objective of attaining a market rate of return throughout the budgetary and economic cycles, taking into account the investment risk constraints and liquidity needs. Return on investments is of secondary importance compared to the safety and liquidity objectives described above. The core of investments is limited to relatively low risk securities in anticipation of earning a fair return relative to the risk being assumed. Securities shall not be sold prior to maturity with the following exceptions:
    - a. A security with declining credit may be sold early to minimize the loss of principal.
    - b. Liquidity needs of the portfolio required that the security be sold.
- C. *Administrative Responsibility.*
1. *Delegation of authority.* Authority to manage the investment program is delegated to the Board of Aldermen, who shall act as the investment officers in accordance with the established written procedures and internal controls for the operation of the investment program consistent with this investment policy.
  2. *Ethics and conflicts of interest.* Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions. Employees and investment officials shall

disclose any material interests in financial institutions with which they conduct business. They shall further disclose any personal financial or investment positions that could be related to the performance of the investment portfolio. Employees and officers shall refrain from undertaking personal investment transactions with the same individual with which business is conducted on behalf of the City of Clever.

3. *Prudence.* The standard of care to be used by investment officials shall be the "Prudent Person Rule" and shall be applied in the context of managing an overall portfolio. Investment officers acting in accordance with written procedures and this investment policy and exercising due diligence shall be relieved of personal liability for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion to the Governing Body and the liquidity and the sale of securities are carried out in accordance with the terms of this policy.

D. *Investment Transactions.*

1. *Authorized financial dealers and institutions.* A list will be maintained of the financial institutions authorized to provide investment transactions. Periodic review of qualifications of financial institutions will be conducted by the investment officers. Selection of financial institutions will be made in compliance with the yield objectives of this policy. Preference will be given to those institutions doing business in the City of Clever.
2. *Internal controls.* The investment officers are responsible for establishing and maintaining internal controls that will be reviewed annually with the City of Clever's independent auditor. The internal control structure shall be designed to ensure that the assets of the City of Clever are protected from loss, theft, or misuse and to provide reasonable assurance that these objectives are met.

E. *Reconciliation And Reporting.*

1. *Reconciliation.* Investment funds shall be reconciled monthly in accordance with the internal control policies of the City.
2. *Reporting.* An investment report shall be provided at least quarterly to the Board of Aldermen.

ARTICLE VI  
**Fund Balance Policy**

**Section 130.150. Fund Balance Policy.** [Ord. No. 477, 2-20-2018]

- A. *Purpose.* The City has enacted the following policy in an effort to ensure financial security through the maintenance of a healthy reserve fund that guides the creation, maintenance and use of resources for financial stabilization purposes. The City's primary objective is to maintain a prudent level of financial resources to protect against reducing service levels or raising taxes and fees due to temporary revenue shortfalls or unpredicted one-time expenditures. The City also seeks to maintain the highest possible credit ratings which are dependent, in part, on the City's maintenance of a healthy fund balance.

- B. **Fund Balance Categories.** The fund balance, which is the excess of assets over liabilities in a governmental fund, may consist of any or all of the five (5) categories defined below. The term "unrestricted fund balance" refers collectively to the three (3) categories of committed, assigned and unassigned .
1. **Non-Spendable.** Fund balance resources that are not in a spendable form (such as prepaids or inventory), are required to be maintained intact (such as the corpus or principal of a permanent fund or capital of a revolving loan fund) or those that will not convert to cash soon enough to affect the current period (long-term portion of receivables and non-financial assets held for resale, such as land).
  2. **Restricted.** Fund balance resources constrained to specific purposes by their providers (such as grantors, bondholders and higher levels of government) through externally enforceable legal restrictions either by constitutional provisions or by enabling legislation. Also included are amounts collected from the long-term portion of receivables or from other long-term assets held for resale which are limited externally in how they can be spent.
  3. **Committed.** Fund balance resources constrained to specific purposes by the Board of Aldermen or amounts collected from the long-term portion of receivables or other long-term assets held for sale which are limited internally. The commitment must be made by formal action (resolution) and the action must be taken before the end of the fiscal year. In order to be reported as committed, amounts cannot be used for any other purpose unless action through resolution to remove or change the constraint is taken.
  4. **Assigned.** Fund balance resources a government intends to use for a specific purpose that do not have to be committed through resolution. Assignment of fund balance is a less formal action than required for committed funds and the action may be taken after the end of the fiscal year. Amounts in excess of non-spendable, restricted and committed fund balances in funds other than the General Fund are automatically reported in this category. Amounts in this category can never cause the unassigned fund balance to be a deficit. This is the category used to reflect the portion of existing fund balance that is planned to be used to eliminate a projected deficit in the subsequent year's budget. In order to assign fund balance, the Board of Aldermen has the authority to assign fund balance and determine the amount to be assigned for capital asset replacement.
  5. **Unassigned Fund Balance.** Fund balance resources that are available for any purpose and which represent any funds available for spending after the funds earmarked for specified purposes have been otherwise classified. The General Fund is the only fund that will record a positive unassigned fund balance. The nature of other fund types automatically makes their resources restricted, committed or assigned. The only situation where other types of funds report amount in the unassigned fund balance category is if the balance is negative, which might occur if the fund spends more resources than it has available in restricted, committed or assigned fund balances.
- C. **Policy Statement.** The fund balance of the City's General Fund and Water/Sewer Fund is to be maintained at a level to provide stability and flexibility to respond to unexpected

adversity and/or opportunities. The target is to maintain an unrestricted fund balance of not less than six (6) months of the current annual operating expenditures of the current operating annual budget in the General Fund and balance of not less than three (3) months in the Water/Sewer Fund. In the event that the balance drops below the established minimum level, the City will develop a plan to replenish the fund balance to the established minimum level within two (2) fiscal years.

- D. Compliance with the provisions of this policy shall be reviewed as part of the annual budget adoption process and amounts of the minimum level of unrestricted fund balance in the General Fund shall be determined during this process. This policy may be amended upon Board of Aldermen approval.
- E. Order Of Spending Resources. The City will spend the most restricted dollars before less restricted in the following order:
  - Non-spendable (if appropriate as funds become spendable)
  - Restricted
  - Committed
  - Assigned
  - Unassigned
- F. Encumbrances. Amounts encumbered for a specific purpose which have not been previously restricted, should be classified as either committed or assigned based on the criteria for each.

## Chapter 135

### PURCHASING AND PROCUREMENT

#### **Section 135.010. Purchasing Agent Designated.** [Ord. No. 479, 4-17-2018<sup>1</sup>]

The Purchasing Agent shall be appointed by the Mayor with the approval of the Board of Aldermen. The Purchasing Agent, when authorized, shall procure for the City the bids for all supplies and contractual services needed by the City in accordance with the procedure prescribed by this Chapter or required by law.

#### **Section 135.020. Duties Generally.** [Ord. No. 479, 4-17-2018]

- A. In addition to the purchasing authority conferred in the preceding Section and in addition to any other powers and duties conferred by this or any other Chapter, the Purchasing Agent shall:
1. Act to 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. Act so as to procure for the City all Federal and State tax exemptions to which it is entitled.
  4. Have the authority to declare vendors who default on their quotations irresponsible bidders and to disqualify them from receiving any business from the municipality for a stated period of time.
  5. Inspect or supervise the inspection of all deliveries with regard to quantity, quality, and conformance to specifications.
  6. Pursue all appropriate claims against the supplier, shipper, or carrier.

#### **Section 135.030. Requisitions and Estimates.** [Ord. No. 479, 4-17-2018]

- A. Each City department shall coordinate with the Purchasing Agent to establish their requirements in supplies and contractual services in such manner, at such times, and for such future periods as the Mayor shall prescribe.
1. A City department shall not be prevented from filing in the same manner with the Purchasing Agent at any time a requisition or estimate for any supplies and

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<sup>1</sup>. Editor's Note: Former Chapter 135, Purchasing And Procurement, containing Sections 135.010 through 135.150, was repealed 4-17-2018 by Ord. No. 479.

contractual services, the need for which was not foreseen when the coordinated requirements were filed.

2. The Purchasing Agent shall examine each requisition or estimate and shall have the authority to revise it as to quantity, quality or estimated cost but only after discussion with the department.

**Section 135.040. Conflict of Interest.** [Ord. No. 479, 4-17-2018]

- A. No employee, officer or agent of the City shall participate in selection or in the award of administration of a contract if a conflict of interest, real or apparent, would be involved.
  1. Such a conflict would arise when the employee, officer or agent, any member of his/her immediate family, his/her partner, or an organization which employs or is about to employ any of the above has a financial or other interest in the firm selected for award.
  2. No officer or employee of the City shall transact any business in his/her official capacity with any business entity of which he/she is an officer, agent, or member or in which he/she owns a substantial interest; nor shall he/she make any personal investments in any enterprise which will create substantial conflict between his/her private interest and the public interest; nor shall he/she or any firm or business entity of which he/she is an officer, agent or member, or the owner of substantial interest, sell any goods or services to any business entity which is licensed by or regulated in any manner by the agency in which the officer or employee serves.
  3. No officer or employee of this City shall enter into any private business transaction with any person or entity that has a matter pending or to be pending upon which the officer or employee is or will be called upon to render a decision or pass judgment. If any officer or employee is already engaged in the business transaction at the time that a matter arises, he/she shall be disqualified from rendering any decision or passing any judgment upon the same.

**Section 135.050. Penalties.** [Ord. No. 479, 4-17-2018]

Any person who knowingly violates the provisions of Section 135.040 shall, upon conviction thereof, be punished as provided in the City Personnel Policy.

**Section 135.060. Gifts and Rebates.** [Ord. No. 479, 4-17-2018]

The Purchasing Agent and every other officer and employee of the City are expressly prohibited from accepting, directly or indirectly, from any person, company, firm or corporation to which any purchase 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. Violation of the provisions of this Section shall upon conviction thereof be punished as provided in the City Personnel Policy.

**Section 135.070. Competitive Bidding.** [Ord. No. 479, 4-17-2018]

- A. When the City negotiates any purchase, sale or other contract, there shall be provided ample opportunity for competitive bidding in the following manner:

1. If the consideration is not more than five hundred dollars (\$500.00), bids shall be solicited in the most expedient manner with due regard for competitive prices and quality.
2. If the consideration is for more than five hundred dollars (\$500.00) but less than one thousand five hundred dollars (\$1,500.00), at least three (3) bids shall be solicited by mail or telephone request with a written confirmation from three (3) prospective vendors, from which the lowest bid with proper qualifications shall be accepted. A record of the quotation shall be maintained. The purchase may be approved by the department head.
3. If the consideration is for more than one thousand five hundred dollars (\$1,500.00) but less than five thousand dollars (\$5,000.00), three (3) written bids shall be solicited, from which the lowest bid with proper qualifications shall be accepted. The purchase may be approved by the Mayor.
4. All supplies and contractual services estimated to cost in excess of five thousand dollars (\$5,000.00) shall be purchased by formal written contract from the lowest responsible after due notice inviting proposals. Whenever possible, at least three (3) bids should be obtained from prospective, qualified vendors. The Board of Aldermen shall award the contract or purchase.
5. Individual contracts, purchases or sales be they for goods, supplies, commodities or services shall not be excluded from the requirement of competitive bidding hereinabove described with the provision, however, that professional engineering services, surveying and architectural services be excluded.
6. Individual contracts or purchases shall not be subdivided for the purpose of evading the requirement of competitive bidding.

**Section 135.080. Financial Requirements Of Bids** [Ord. No. 479, 4-17-2018]

- A. For each contract exceeding one hundred thousand dollars (\$100,000.00) the City will require the following guarantees:
  1. A bid guarantee from each bidder equivalent to five percent (5%) of the bid price. This may be secured through a bid bond or a certified check.
  2. A performance bond of one hundred percent (100%) of the contract price on the part of the contractor to ensure completion of the contract.
  3. A payment bond for one hundred percent (100%) of the contract price on the part of the contractor to ensure payment to all persons supplying labor and materials.
  4. An irrevocable letter of credit issued by a bank may be used in place of a performance bond.
- B. Bids must be based on a firm fixed price, based on either unit price or cost-plus-fixed-fee. Cost plus a percentage of cost and percentage of construction cost method of contracting will not be accepted.

- C. All contracts other than small purchases shall contain provisions which describe administrative, contractual and/or legal remedies when contractors violate contract terms and provide for appropriate damages.

**Section 135.090. Notice Defined.** [Ord. No. 479, 4-17-2018]

- A. The notice required by the preceding Section shall consist of the following:
1. Notice inviting bids shall be published once in at least one (1) official newspaper of the area at least ten (10) days preceding the last day set for the receipt of proposals. The newspaper notice required herein shall include a general description of the articles to be purchased or sold, shall state where bid blanks and specifications may be secured and the time and place for opening bids.
  2. The Purchasing Agent shall also solicit sealed bids from all responsible prospective suppliers who have requested that their name be added to a "bidders' list," which the Purchasing Agent shall maintain, by sending them a copy of such newspaper notice or such other notice as will acquaint them with the proposed purchase or sale. In any case, invitations sent to the vendors on the bidders' list shall be limited to commodities that are similar in character and ordinarily handled by the trade group to which the invitations are sent.
  3. The City Clerk shall also advertise all pending purchases or sales by a notice posted on the bulletin board/outside window of the City Hall.
  4. The Purchasing Agent shall also solicit sealed bids by direct mail request to prospective vendors and by telephone as may seem to him/her to be in the best interest of the City.

**Section 135.100. Bid Opening Procedure.** [Ord. No. 479, 4-17-2018]

Bids shall be submitted sealed to the Purchasing Agent and shall be identified as bids on the envelope. They shall be opened in public at the time and place stated in the public notices. A tabulation of all bids received shall be posted for public inspection and a tabulation report forwarded to the Mayor and Board of Aldermen.

**Section 135.110. Lowest Responsible Bidder.** [Ord. No. 206 §10, 12-11-1995]

- A. The City reserves the right to reject any or all bids. Contracts shall be awarded to the lowest responsible bidder. Bids shall not be accepted from, nor contract awarded to a contractor who is in default on the payment of taxes, licenses or other monies due the City. In determining "lowest responsible bidder," in addition to price, the following shall be considered:
1. The ability, capacity and skill of the bidder to perform the contract or provide the service required;
  2. Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;

3. The character, integrity, reputation, judgment, experience and efficiency of the bidder;
4. The quality performance of previous contracts or services;
5. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service;
6. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
7. The quality, availability and adaptability of the supplies or contractual services to the particular use required;
8. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract; and
9. The number and scope of conditions attached to the bid.

**Section 135.120. Justification of Award.** [Ord. No. 479, 4-17-2018]

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 made to the Board of Aldermen prior to awarding the contract.

**Section 135.130. Tie Bids.** [Ord. No. 479, 4-17-2018]

If all bids received or the lowest 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. Where there is no local bidder, the award shall be made on the basis of a drawing of lots to be held in public.

**Section 135.140. Local Businesses Bid Credit.** [Ord. No. 479, 4-17-2018]

The Purchasing Agent shall credit competitive estimates made by local businesses and contractors with a three percent (3%) adjustment to the comparative estimate made. Such credit shall be applied to determine the lowest competitive estimate in those situations where comparative estimates are obtained for determining the lowest and best estimate. "*Local businesses and contractors*" shall mean business or contractor which has a regular and established place of business within Christian County and is licensed in accordance with the provisions of the licensing ordinance of the City where the business is located.

**Section 135.150. Open Market Procedures.** [Ord. No. 479, 4-17-2018]

- A. For all purchases sell or all other contractual services for which competitive bidding is not required by Section 135.070 of this Chapter, shall be made in the open market, without newspaper advertisement and without observing the procedures prescribed by Section 135.100 for the award of formal contracts.
  1. All open market purchases shall, whenever possible, be based on at least three (3) competitive bids and shall be awarded to the lowest responsible bidder in accordance with the standards set forth in Section 130.110.

2. The City shall solicit bids by:
  - a. Direct mail request to prospective vendors,
  - b. By telephone,
  - c. By public notice posted on the bulletin board of City Hall, and
  - d. Posting on City website.
3. The purchasing agent shall keep a record of all open market orders and the bids submitted in competition thereon, and such records shall be open to public inspection.

**Section 135.160. Procuring Professional Services.** [Ord. No. 479, 4-17-2018]

- A. The purchasing agent may determine whether to utilize competitive bidding as described in Section 135.070 or competitive negotiation to procure professional services.
  1. Under competitive negotiation only fixed price or cost reimbursement contracts may be awarded.
  2. Proposals must be solicited from three (3) or more qualified sources to permit reasonable competition consistent with the nature and requirements of the procurement.
  3. A request for qualifications or a request for proposals must be issued and publicized which identifies all the factors that will be used to evaluate submissions, including the importance that price or cost will play in the selection.
  4. All proposals received must be evaluated. A written method for evaluation which includes the significant factors to be used to determine the contract selection award will be prepared and publicized along with the request for qualifications/proposals
  5. The award will be made to the offeror whose qualifications/proposal is to be most advantageous to the City, considering prices and other factors identified in the request for qualifications/proposals. The basis for selection must be documented in writing.
  6. Unsuccessful offerors will be notified promptly in writing.

**Section 135.170. Petty Cash Revolving Fund.** [Ord. No. 479, 4-17-2018]

There is hereby appropriated out of the money in the City, not otherwise appropriated, the sum of one hundred dollars (\$100.00) which shall be known as the Petty Cash Expenditures Revolving Fund. From this fund shall be paid all purchases not in excess of one hundred dollars (\$100.00) each made by authorized officials for incidentals. The purchasing agent shall develop rules and regulations for use and reconciliation of the Petty Cash Expenditures Revolving Fund.

**Section 135.180. Emergency Purchases.** [Ord. No. 479, 4-17-2018]

In case of an apparent emergency which requires immediate purchase of supplies or contractual services, the Mayor may authorize the purchase, at the lowest obtainable price, of any supplies or contractual services with a cap of one thousand dollars (\$1,000.00). A full explanation of the

circumstances of an emergency purchase shall be made to the Board of Aldermen.

**Section 135.190. Cooperative Procurement.** [Ord. No. 479, 4-17-2018]

The Purchasing Agent shall have the authority to join with other units of government in cooperative purchasing plans when the best interest of the City would be served and after approval of the Board of Aldermen.