

CHAPTER 33: CITY OFFICIALS

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GENERAL PROVISIONS**§ 33.001 ELECTIVE OFFICERS; TERMS.**

(A) The following officers shall be elected by the qualified voters of the city and shall hold office for the term of two years, except as provided in this section, and until their successors are elected and qualified, to wit: Mayor and Board of Aldermen.

(B) The Collector shall be elected by the qualified voters of the city, and shall hold office for the term of four years, except as otherwise provided in this section, and until his or her successor is elected and qualified.

(Prior Code, § 115.010) (Ord. 359, passed 5-6-2006)

§ 33.002 APPOINTIVE OFFICERS.

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

(Prior Code, § 115.020) (Ord. 359, passed 5-6-2006)

§ 33.003 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 or 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 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 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. (Prior Code, § 115.030)

§ 33.004 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. (Prior Code, § 115.040)

§ 33.005 OFFICERS' OATH; BOND.

(A) Every officer of the city and his or her assistants, and every Alderman, before entering upon the duties of his or 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 or she possesses all the qualifications prescribed for his or her office by law; that he or 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 or herself while in office; which official oath or affirmation shall be filed with the City Clerk.

(B) Every officer of the city, when required by law or ordinance, shall, within 15 days after his or her appointment or election, and before entering upon the discharge of the duties of his or 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 or her duty, and that he or she will pay over all monies belonging to the city, as provided by law, that may come into his or 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 or 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. (Prior Code, § 115.050)

§ 33.006 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 or she was elected or appointed. (Prior Code, § 115.060)

§ 33.007 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 regular meeting of the Board of Aldermen thereafter, at which time such vacancy shall be permanently filled.

(Prior Code, § 115.070) (Ord. 301, passed 7-6-2000)

§ 33.008 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.

(Prior Code, § 115.080)

CITY CLERK**§ 33.020 ELECTION AND 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 or she shall safely and properly keep all the records and papers belonging to the city which may be entrusted to his or her care; he or she shall be the general accountant of the city; he or she is hereby empowered to administer official oaths and oaths to persons certifying to demands or claims against the city.

(Prior Code, § 115.090) (Ord. 146, passed 10-1-1970)

§ 33.021 BOND.

The City Clerk shall cause a personal surety bond in a sum as set from time to time by the Board of Aldermen to be posted with the city, named as loss payee thereon. Said bond shall be unconditional with a company of substantial means, the same to be approved by the Board of Aldermen and given to secure the fidelity of the officer in question.

(Prior Code, § 115.095) (Ord. 237, passed 10-6-1987)

§ 33.022 CUSTODIAN OF RECORDS; SUNSHINE LAW.

(A) The City Clerk is hereby appointed as Custodian of Records of the city located at City Hall, which is currently located at 204 North Cherry Street, Otterville, MO 65348, with a mailing address of PO Box 58, Otterville, MO 65348. Request for records made to persons other than the City Clerk shall not be considered to be requests that are made pursuant to the state's Sunshine Law, Chapter 610 of the state statutes. None-the-less, any official or employee of the city who receives a request is directed to inform the City Clerk of the request in a timely fashion so that response may be made to the request.

(B) (1) The fees be charged for access to or furnishing copies of the records shall be in accordance with RSMo. § 610.026 or its successors, which currently provide that fees for copying public records shall not exceed \$0.10 per page for a paper copy not larger than nine by 14 inches, with the hourly rate for duplicating time not to exceed the average hourly rate of pay for clerical staff of the city. Research time required for fulfilling records' request may be charged at the actual cost of research time. Based upon the scope of the request, the city shall produce copies used by employees of the city that result in the lowest amount of charges for search, research, and duplication time.

(2) Prior to producing copies of the requested records, the person requesting the records may request the city to provide an estimate of the cost to the person requesting the records. Documents may be furnished without charge or 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 city and is not primarily in the commercial interest of the requester.

(3) Fees for providing access to public records maintained on computer facilities, recording tapes or discs, video tapes or films, pictures, maps, slides, graphics, illustrations, or similar audio or visual items or devices, and for paper copies larger than nine by 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 disc, tape, or other medium used for the duplication. Fees for maps, blue-prints, 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 program is required beyond the customary and usual level to comply with the request for records or information, the fees for compliance may include the actual cost of such programming. Payment of such copying fees may be requested prior to the making of copies.

(C) It is the public policy of the city that meetings records, votes, actions, and deliberations of this body shall be open to the public unless authorized to be closed by law, including the provisions of RSMo. § 610.021 or its successors.

(D) The city intends to hold close session meetings, from time to time, as needed and as authorized by law and allowed for under the Sunshine Law, and hereby closes the records of any such meeting in conformity with the provisions of the Sunshine Law and *State ex rel, Missouri State Board of Pharmacy v. Administrative Hearing Commission*, 220 SW 3d, 822 (Mo App WD 2007). Closure shall apply to

past, existing, and future documents, communications, records, and information to the fullest extent permitted by law and RSMo. § 610.021, as the statute now reads or may be amended in the future. All records of the city which are permitted to be closed records by reason of the Sunshine Law or by any other statute of the state or by any statute or regulation of the United States government shall be maintained as closed records. No such closed records shall be released to any person who is not part of the city government, except that city's auditor may see such records as are reasonably necessary to prepare an audit report as requested by the city and the City's Attorney may see such records as are reasonably necessary to represent the city. Request that closed records be open to public inspection will be considered on a case-by-case basis by the Board of Aldermen.

(E) (1) Notice of meetings, accessibility of meetings, and minutes of meetings be kept shall be in compliance with RSMo. § 610.020 or its successors. Currently said section provides that the city 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 this meeting will be conducted by telephone or other electronic means, the notice of 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.

(2) Reasonable notice shall include making available copies of the notice to any representative of the news media to request notice of meetings concurrent with the notice being made available to the Board of Aldermen 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 Board of Aldermen, or if no such office exists, than the building in which the meeting is to be held. Notice shall be given at least 24 hours in advance, exclusive of weekends and holidays when the facility is closed prior to the commencement of the meeting, unless for good cause such notice is impossible or impractical, in which case, as much notice as is reasonably possible shall be given.

(3) Each meeting shall be held at a place reasonably accessible to the public in 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. The public body shall allow for the recording by audio tape, video tape, or other electronic means of any open meeting. A public body may establish guidelines regarding the manner in which such recording is conducted so as to minimize the disruption to the meeting. No audio recording of any meeting, record, or vote, closed pursuant to the provisions of the Sunshine Law or otherwise provided by law, shall be permitted without the permission of the public body.

(4) When it is necessary to hold a meeting on less than 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 requirement shall be stated in the minutes. The journal of minutes of open and closed meetings shall be taken and retained by the city, including, but not limited to, a record of any votes taken at such meeting. Minutes shall include the date, time, place, members present, members absent, and a record of any votes taken. When a roll call vote is taken, the minutes shall attribute each "yea" and "nay" vote or abstention if not voting, to name of the individual member of the city.

(F) Any member of a public governmental body who transmits a message relating to public business by electronic means to two or more members of that body, such that, when counting the sender, a majority of the bodies' members are copied, shall concurrently transmit that message to the custodian of records for the city's computer. Any message received by the custodian or at the city's office computer shall be public records subject to the exceptions of RSMo. § 610.020.

(G) It is in general the policy of the city to comply with RSMo. Chapter 610, the Sunshine Law as is now existing or hereafter amended.
(Ord. 390, passed 5-6-2009)

CITY TREASURER

§ 33.035 TREASURER DUTIES.

The Treasurer shall receive and safely keep all monies, warrants, books, bonds, and obligations entrusted to his or 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 or her by ordinance.
(Prior Code, § 115.100) (Ord. 237, passed 10-6-1987)

CITY COLLECTOR

§ 33.050 APPOINTMENT.

The City Collector shall be elected as set out in Chapter 31.
(Prior Code, § 115.110)

§ 33.051 BOND.

The City Collector shall cause a personal surety bond in a sum as set from time to time as set by the Board of Aldermen to be posted with the city, named as loss payee thereon. Said bond shall be unconditional with a company of substantial means, the same to be approved by the Board of Aldermen and given to secure the fidelity of the officer in question.
(Prior Code, § 115.115) (Ord. 237, passed 10-6-1987)

§ 33.052 DUTIES GENERALLY.

(A) Except as may be provided otherwise by law or ordinance of this city, the City Collector shall make an annual report to the Board of Aldermen stating the amount collected by him or her for the preceding fiscal year, the amounts due the city remaining uncollected, the names of the persons delinquent and the reason for delinquency, such report to be given at the April meeting of the Board of Aldermen in each year; countersign all licenses issued by the city; at the April meeting of the Board of Aldermen each year present to the Board a verified "Land and Lot Delinquent List" and "Personal Delinquent List"; collect delinquent taxes due the city, by suit, seizure, or sale; on or before the first Monday in March in each year, file with the County Collector a list of delinquent lots and lands on which taxes due the city are unpaid; make a monthly report to the Board of Aldermen of delinquent taxes collected; pay over to the City Treasurer monthly all monies received by him or her; collect the penalty on delinquent taxes on land as required by statute.

(B) In addition to the other duties imposed on him or her by the Constitution and laws of the state and other ordinances of the city, prepare the monthly statement of receipts and expenditures for the waterworks system; shall collect all fees for and countersign all permits and licenses issued by the city; and shall give his or her annual report to the Board as required by § 33.053.

(C) 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.

(D) The City Collector shall receive as compensation for his or her services a fee or percentage, as may be fixed by ordinance.

(Prior Code, § 115.120) (Ord. 146, passed 10-1-1970; Ord. 133B, passed 12-27-1971)

§ 33.053 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 or her during the year, and the amounts uncollected and the names of the persons from which he or she failed to collect and the causes therefor.

(Prior Code, § 115.130)

§ 33.054 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 or she shall possess all the qualifications and powers and be charged with the same duties as the Collector.

(Prior Code, § 115.140)

*CITY ATTORNEY***§ 33.065 APPOINTMENT; TERM.**

(A) The Mayor, with the advice and consent of the Board of Aldermen, at the first meeting after each annual city election, shall appoint a suitable person as City Attorney who shall hold office until his or her successor is appointed and qualified.

(B) No person shall be appointed to the office of City Attorney unless he or she be a licensed and practicing attorney at law in this state.
(Prior Code, § 115.150)

*MISCELLANEOUS PROVISIONS***§ 33.080 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.
(Prior Code, § 115.160)

§ 33.081 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 or her accounts or other papers or records, and to make report to the Board of Aldermen, in writing, touching any matter relating to his or her office.
(Prior Code, § 115.170)

