CHAPTER 34: CITY POLICIES

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GENERAL PROVISIONS

§ 34.001 FEDERAL OLD-AGE, SURVIVORS, DISABILITY, AND HEALTH INSURANCE.

(A) It is hereby declared to be the policy and purpose of the city to extend to all eligible employees and officials of said city who are not excluded by law or by this section, and whether employed in connection with a governmental or proprietary function of said city, the benefits of the system of Federal Old-Age, Survivors, Disability, and Health Insurance as authorized by the RSMo. §§ 105.300 through 105.445, as the same may be now and hereafter in effect.

(B) (1) The Mayor and the City Clerk are hereby authorized and directed, on behalf of this city, to prepare, execute, and submit to the state's Office of Administration, Social Security Unit, as state agency of the State of Missouri, a plan and agreement for extending said benefits to said eligible employees and officials of the city, in the form prepared by the state agency and hereby approved and adopted by the Board of Aldermen of this city, which plan and agreement are to become effective upon approval thereof by the state agency, and are further authorized and directed to execute agreements and modifications and amendments thereof with said state agency providing for the extension of said benefits to said employees and officials as set forth in said plan and agreement, as provided for in division (A) above, said plan and agreement to provide that said extension of benefits is to be effective on January 1, 1989.

(2) Commencing on the first pay period following the date of the approval of the plan and agreement of this city by the state agency, there shall be deducted from the wages of all employees and officials of the city, to whom the benefits of said system of Federal Old-Age, Survivors, Disability, and Health Insurance are extended, by virtue of the plan and agreement hereinbefore provided for, the amount of each of said employees' and officials' contributions, as determined by the applicable state and federal laws and by said plan and agreement, the aggregate amount of said deductions to be paid to the Internal Revenue Service as required by federal law; provided however, that from the first payment of wages made to each of said employees and officials after the benefits of said system have been extended to such employees and officials, there shall be deducted a sum equal to the amount which would have

been due and payable from each said employee and official had said extension of benefits been provided and effective on January 1, 1989.

(C) Should the effective date of coverage as provided in division (B) above be for retroactive periods prior to 1989, said deductions shall be paid into the state's OASDHI Trust Fund as created by RSMo. § 105.390, for benefits extended under said system of Federal Old-Age, Survivors, Disability, and Health Insurance as determined by applicable state and federal laws.

(D) Commencing on the first pay period following the date of the approval of the plan and agreement of this city by the state agency, there is hereby authorized to be appropriated from the General Fund of the city, and there is, and shall be, appropriated the sum or sums of money necessary to pay the contributions of the city, which shall be due and payable by virtue of the extension of the benefits of the Federal Old-Age, Survivors, Disability, and Health Insurance System to the eligible employees and officials of said city, said sum or sums of money to be paid to the Internal Revenue Service as required by federal law; provided however, that in making the first payment to the Internal Revenue Service, after the benefits of said system have been extended to such employees and officials, said first payment shall include a sum equal to the amount which would have been due and payable had said extension of benefits been provided and effective on January 1, 1989. The fund from which said appropriation is made will, at all times, be sufficient to pay the contributions of the city by this section directed to be paid to the Internal Revenue Service.

(E) The city, from and after the approval of the plan and agreement of this city by the state agency, shall fully comply with, and shall keep such records, make such reports, and provide such methods of administration of said plan and agreement as may be required by all applicable state and federal laws, rules and regulations, now and hereafter in effect with respect to the extension of the benefits of the Federal Old-Age Survivors, Disability, and Health Insurance System to the employees and officials of this city. For the purpose of administering said plan and agreement, the City Clerk shall be the official who shall make all required reports, keep all records, and be responsible for the administration of said plan and agreement on behalf of this city, and any and all notices and communications from the state agency or the Internal Revenue Service to this city with respect to said plan and agreement shall be addressed to: City of Otterville, PO Box 58, Otterville, Missouri 65348.
(Prior Code, § 135.010) (Ord. 243, passed 12-6-1988)

IDENTITY THEFT PREVENTION PROGRAM

§ 34.015 PURPOSE.

(A) The city (the "utility") has developed this identity theft prevention program ("program") pursuant to the Federal Trade Commission's (FTC) Red Flag Rule, which implements § 114 of the Fair and Accurate Credit Transaction Act of 2003, pursuant to 16 C.F.R. § 681.2. This program is designed to detect, prevent, and mitigate identity theft in connection with the opening and maintenance of certain

utility accounts. For purposes of this program, ***IDENTITY THEFT*** is considered to be fraud committed using the identifying information of another person.

(B) The ***ACCOUNTS***, addressed by the program, are defined as:

(1) A continuing relationship the utility has with an individual through an account the utility offers or maintains primarily for personal, family, or household purposes, that involves multiple payments or transactions; and

(2) Any other account the utility offers or maintains for which there is a reasonable foreseeable risk to customers or to the safety and soundness of the utility from identity theft.

(C) This program was developed with oversight and approval of the Board of Aldermen of the city. After consideration of the size and complexity of the utility's operations and account systems, and the nature and scope of the utility's activities, the Board of Aldermen of the city determined that this program was appropriate for the city and therefore approved this program on November 1, 2008. (Ord. passed - -)

§ 34.016 IDENTIFICATION OF RED FLAGS.

(A) A red flag is a pattern, practice, or specific activity that indicates the possible existence of identity theft. In order to identify relevant red flags, the utility considered risk factors such as the types of accounts that it offers and maintains, the methods it provides to open its accounts, the methods it provides to access its accounts, and its previous experiences with identity theft.

(B) The utility identified the following red flags, in each of the listed categories.

(1) *Notifications and warnings from consumer reporting agencies*. Possible red flags for this category include:

(a) A fraud or activity alert is included with a consumer report;

(b) Receiving a report or notice from a consumer reporting agency of a credit freeze;

(c) Receiving a report of fraud with a consumer report; and

(d) Receiving indication from a consumer report of activity that is inconsistent with a customer's usual pattern or activity. (A utility will likely only have a listing in this category if it reports to or obtains information from consumer reporting agencies.)

(2) *Suspicious documents*. Possible red flags for this category include:

(a) Receiving documents that are provided for identification that appear to be forged or altered;

(b) Receiving documentation on which a person's photograph or physical description is not consistent with the person presenting the documentation;

(c) Receiving other documentation with information that is not consistent with existing customer information (such as if a person's signature on a check appears forged); and

(d) Receiving an application for service that appears to have been altered or forged.

(3) *Suspicious personal identifying information*. Possible red flags for this category include:

(a) A person's identifying information is inconsistent with other sources of information (such as an address not matching an address on a consumer report or a Social Security number that was never issued);

(b) A person's identifying information is inconsistent with other information the customer provides (such as inconsistent Social Security numbers or birth dates);

(c) A person's identifying information is the same as shown on other applications found to be fraudulent;

(d) A person's identifying information is consistent with fraudulent activity (such as an invalid phone number or fictitious billing address);

(e) A person's Social Security number is the same as another customer's Social Security number;

(f) A person's address or phone number is the same as that of another person;

(g) A person fails to provide complete personal identifying information on an application when reminded to do so; and

(h) A person's identifying information is not consistent with the information that is on file for the customer.

(4) *Unusual use of or suspicious activity related to an account*. Possible red flags for the category include:

(a) A change of address for an account followed by a request to change the account holder's name or add other parties;

(b) A new account is used in a manner consistent with fraud (such as the customer failing to make the first payment, or making the initial payment and no other payments);

(c) An account being used in a way that is not consistent with prior use (such as late or no payments when the account has been timely in the past);

(d) Mail sent to the account holder is repeatedly returned as undeliverable;

(e) The utility receives notice that a customer is not receiving his or her paper statements;

(f) The utility receives notice that an account has unauthorized activity; and

(g) Breach in the utility's computer system.

(5) *Notice regarding possible identity theft*. Possible red flags for this category include: the utility receives notices from a customer, an identity theft victim, law enforcement, or any other person that has opened or is maintaining a fraudulent account for a person engaged in identity theft.
(Ord. passed - -)

§ 34.017 DETECTION OF RED FLAGS.

(A) In order to detect any of the red flags identified above with the opening of a new account, utility personnel will take the following steps to obtain and verify the identity of the person opening the account Steps can include:

(1) Requiring certain identifying information such as name, date of birth, residential or business address, principal place of business for an entity, Social Security number, driver's license, or other identification;

(2) Verifying the customer's identity, such as by copying and reviewing a driver's license or other identification card;

(3) Reviewing documentation showing the existence of a business entity; and

(4) Independently contacting the customer.

(B) In order to detect any of the red flags identified above for an existing account, utility personnel will take the following steps to monitor transactions with an account: Steps can include:

(1) Verifying the identification of customers if they request information (in person, via telephone, via facsimile, or via email);

(2) Verifying the validity of requests to change billing addresses; and

(3) Verifying changes in banking information given for billing and payment purposes.
(Ord. passed - -)

§ 34.018 PREVENTING AND MITIGATING IDENTIFY THEFT.

(A) In the event utility personnel detect any identified red flags, such personnel shall take one or more of the following steps, depending on the degree of risk posed by the red flag. Steps can include:

(1) Continuing to monitor an account for evidence of identity theft;

(2) Contacting the customer;

(3) Changing any passwords or other security devices that permit access to accounts;

(4) Reopening an account with a new number;

(5) Not opening a new account;

(6) Closing an existing account;

(7) Notifying law enforcement;

(8) Determining that no response is warranted under the particular circumstances; or

(9) Notifying the Program Administrator (as defined below) for determination of the appropriate step(s) to take.

(B) In order to further prevent the likelihood of identity theft occurring with respect to utility accounts, the utility will take the following steps with respect to its internal operating procedures. These steps are not outlined in the FTC's Red Flag Rule, but possible steps may include:

(1) Providing a secure website or clear notice that a website is not secure;

(2) Ensuring complete and secure destruction of paper documents and computer files containing customer information, including documentation of such destruction;

(3) Ensuring that office computers are password protected and that computer screens lock after a set period of time;

(4) Requiring only the last four digits of Social Security numbers on customer applications;

(5) Limiting access to accounts to only employees that require access;

(6) Prohibiting account information to be written on sticky pads or note pads;

(7) Ensuring that computer screens are only visible to the employee accessing the account; and

(8) Requiring customers to authenticate addresses and personal information, rather than account representatives asking if the information is correct.
(Ord. passed - -)

§ 34.019 UPDATING THE PROGRAM AND THE RED FLAGS.

This program will be periodically reviewed and updated to reflect changes in risks to customers and the soundness of the utility from identity theft. At least once per year, the Program Administrator will consider the utility's experiences with identity theft situation, changes in identity theft methods, changes in identity theft detection and prevention methods, changes in types of accounts the utility maintains, and changes in the utility's business arrangements with other entities. After considering these factors, the Program Administrator will determine whether changes to the program, including the listing of red flags, are warranted. If warranted, the Program Administrator will present the Board of Aldermen with his or her recommended changes and the Board of Aldermen of the city will make a determination of whether to accept, modify, or reject those changes to the program.
(Ord. passed - -)

§ 34.020 PROGRAM ADMINISTRATION.

(A) *Oversight*. The utility's program will be overseen by a Program Administrator. The Program Administrator shall be the City Clerk, or in the absence of the City Clerk, some other designated employee of the city as designated by the Board of Aldermen. The Program Administrator will be responsible for the program's administration, for ensuring appropriate training of utility staff on the program, for reviewing any staff reports regarding the detection of red flags, and the steps for preventing and mitigating identity theft, determining which steps of prevention and mitigation should be taken in particular circumstances, reviewing and, if necessary, approving changes to the program.

(B) *Staff training and reports*. Utility staff responsible for implementing the program shall be trained either by or under the direction of the Program Administrator in the detection of red flags, and the responsive steps to be taken when a red flag is detected. Such training will be sufficient to effectively implement the program.

(C) *Service provider arrangements*. The utility will take the following steps to ensure the service provider performs its activity in accordance with reasonable policies and procedures designed to detect, prevent, and mitigate the risk of identity theft. These steps may include:

(1) Requiring, by contract, that service providers have such policies and procedures in place; and

(2) Requiring, by contract, that service providers review the utility's program and report any red flags to the Program Administrator.
(Ord. passed - -)

SEARCH WARRANTS

§ 34.035 DEFINITION; WHO MAY ISSUE.

(A) An administrative search warrant is a written order of the Municipal Judge commanding the search or inspection of any property, place, or thing, and the seizure, photographing, copying, or recording of property or physical conditions found thereon or therein, to determine or prove the existence of violations of any ordinance or code section of the city relating to the use, condition, or occupancy of property or structures located within the city, or to enforce the provisions of any such ordinance or code section.

(B) The Municipal Judge, having original and exclusive jurisdiction to determine violations against the ordinances of the municipality, may issue an administrative search warrant when:

(1) The property or place to be searched or inspected or the thing to be seized is located with the city at the time of the making of the application; and

(2) The owner or occupant of the property or place to be searched or inspected or the thing to be seized has refused to allow same after official request by the city.

(C) Any such warrant shall be directed to the Chief of Police or any other police officer of the city and shall be executed by the Chief of Police or said police officer within the city limits and not elsewhere.
(Ord. 340, passed 3-5-2005)

§ 34.036 WHO MAY APPLY FOR WARRANT; CONTENTS OF APPLICATION.

(A) Any police officer or an attorney of the city may make application to the Municipal Judge for the issuance of an administrative search warrant.

(B) The application shall:

(1) Be in writing;

(2) State the time and date of the making of the application;

(3) Identify the property or places to be entered, searched, inspected, or seized in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;

(4) State that the owner or occupant of the property or places to be entered, searched, inspected, or seized has been requested by the to allow such action and has refused to allow such action;

(5) State facts sufficient to show probable cause for the issuance of a search warrant, as provided in § 34.037(A), to:

(a) Search or inspect for violations of an ordinance or code section specified in the application; or

(b) Show that entry or seizure is authorized and necessary to enforce an ordinance or code section specified in the application and that any required due process has been afforded prior to the entry or seizure.

(6) Be verified by the oath or affirmation of the applicant; and

(7) Be signed by the applicant and filed in the Municipal Court.

(C) The application may be supplemented by a written affidavit verified by oath or affirmation. Such affidavit shall be considered in determining whether there is probable cause for the issuance of a search warrant and in filling out any deficiencies in the description of the property or place to be searched or inspected. Oral testimony shall not be considered.
(Ord. 340, passed 3-5-2005)

§ 34.037 HEARING AND PROCEDURE; CONTENTS OF WARRANT; EXECUTION AND RETURN.

(A) *Hearing and procedure.*

(1) The Municipal Judge shall hold a non-adversary hearing to determine whether probable cause exists to inspect or search for violations of any ordinance or code section, or to enforce any such ordinance or code section.

(2) In doing so, the Municipal Judge shall determine whether the action to be taken by the city is reasonable in light of the facts stated. The Municipal Judge shall consider the goals of the ordinance or code section sought to be enforced and such other factors as may be appropriate, including, but not limited to, the physical condition of the specified property, the age and nature of the property, the condition of the area in which the property is located, the known violation of any relevant ordinance or code section, and the passage of time since the property's last inspection. The standard for issuing a warrant need not be limited to actual knowledge of an existing violation of a city ordinance or code section.

(3) If it appears from the application and any supporting affidavit that there is probable cause to inspect or search for violations of any city ordinance or code section or to enforce any such ordinance or code section, a search warrant shall immediately be issued.

(4) The warrant shall issue in the form of an original and two copies, and the application, any supporting affidavit and one copy of the warrant as issued shall be retained in the records of the Municipal Court.

(B) *Contents of search warrant*. The search warrant shall:

(1) Be in writing and in the name of the city;

(2) Be directed to any police officer in the city;

(3) State the time and date the warrant was issued;

(4) Identify the property or places to be searched, inspected, or entered upon in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;

(5) Command that the described property or places be searched or entered upon, and that any evidence of any city ordinance violations found therein or thereon, or any property seized pursuant thereto, or a description of such property seized, be returned, within ten days after filing of the application, to the Municipal Judge who issued the warrant, to be dealt with according to law; and

(6) Be signed by the judge, with his or her title of office indicated.

(C) *Execution and return*. A search warrant issued under this subchapter shall be executed only by a city police officer; provided, however, that one or more designated city officials may accompany the officer, and the warrant shall be executed in the following manner.

(1) The warrant shall be executed by conducting the search, inspection, entry, or seizure as commanded and shall be executed as soon as practicable and in a reasonable manner.

(2) The officer shall give the owner or occupant of the property searched, inspected, or entered upon a copy of the warrant.

(3) If any property is seized incident to the search:

(a) The officer shall give the person from whose possession it was taken, if the person is present, an itemized receipt for the property taken. If no such person is present, the officer shall leave the receipt at the site of the search in a conspicuous place;

(b) A copy of the itemized receipt of any property taken shall be delivered to an attorney for the city within two working days of the search; and

(c) The disposition of property seized pursuant to a search warrant under this section shall be in accordance with an applicable city ordinance or code section, but in the absence of same, then with RSMo. § 542.301.

(4) The officer may summon as many persons as he or she deems necessary to assist him or her in executing the warrant, and such persons shall not be held liable as a result of any illegality of the search and seizure.

(5) An officer making a search pursuant to an invalid warrant, the invalidity of which is not apparent on its face, may use such force as he or she would be justified in using if the warrant were valid.

(6) A search warrant shall expire if it is not executed and the required return made within ten days after the date of the making of the application.

(D) *Return of warrant.*

(1) After execution of the search warrant, the warrant, with a return thereon signed by the officer making the search, shall be delivered to the Municipal Court.

(2) The return shall show the date and manner of execution and the name of the possessor and of the owner, when not the same person, if known, of the property or places searched or seized.

(3) The return shall be accompanied by any photographs, copies, or recordings made, and by any property seized, along with a copy of the itemized receipt of such property required by this section; provided, however, that seized property may be disposed of as provided herein, and in such a case a description of the property seized shall accompany the return.

(4) The Court Clerk, upon request, shall deliver a copy of the return to the possessor and the owner, when not the same person, of the property searched or seized.
(Ord. 340, passed 3-5-2005)

§ 34.038 WHEN A SEARCH WARRANT SHALL BE DEEMED INVALID.

A search warrant shall be deemed invalid when:

(A) If it was not issued by the Municipal Judge;

(B) If it was issued without a written application having been filed and verified;

(C) If it was issued without sufficient probable cause in light of the goals of the subchapter to be enforced and such other factors as provided in § 34.037(A)(2);

(D) If it was not issued with respect to property or places in the city;

(E) If it does not describe the property or places to be searched, inspected, entered upon, or seized with sufficient certainty;

(F) If it is not signed by the judge who issued it; or

(G) If it was not executed and the required return made within ten days after the date of the making of the application.
(Ord. 340, passed 3-5-2005)

OPEN MEETINGS AND RECORDS POLICY

§ 34.050 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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 § 34.059, 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 or more elected or appointed members having rule making 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; and

(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 RSMo. Chapters 352, 353, or 355, or unincorporated association which either:

(a) Has as its primary purpose to enter into contracts with ***PUBLIC GOVERNMENTAL BODIES*** or to engage primarily in activities carried out pursuant to an agreement or agreements with ***PUBLIC GOVERNMENTAL BODIES***; or

(b) Performs a public function, as evidenced by a statutorily 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 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 definition 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.
(RSMo. § 610.010) (Ord. 349, passed 9-10-2005)

§ 34.051 MEETINGS, RECORDS, AND VOTES TO BE PUBLIC; EXCEPTIONS.

All meetings, records, and votes are open to the public, except that any meeting, record, or vote relating to one or more of the following matters, as well as other materials designated elsewhere in this chapter, shall be closed unless the public governmental body votes to make them public:

(A) Legal actions, causes of action, or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives and its attorneys; however, any minutes, vote, or settlement agreement relating to legal actions, causes of action, or litigation involving a public governmental body or any agent or entity representing its interests or acting on its behalf or with its authority, including any insurance company acting on behalf of a public 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 RSMo. § 610.011, 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;

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

(C) Hiring, firing, disciplining, or promoting of particular employees by a public governmental body when personal information about the employee is discussed or recorded; however, any vote on a final decision, when taken by a public governmental body, to hire, fire, promote, or discipline an employee of a public governmental body shall be made available with a record of how each member voted to the public within 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 72-hour period before such decision is made available to the public. As used in this division (C), the term ***PERSONAL INFORMATION*** means information relating to the performance or merit of individual employees;

(D) Non-judicial mental or physical health proceedings involving an identifiable person, including medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment;

(E) Testing and examination materials, before the test or examination is given or, if it is to be given again, before so given again;

(F) Welfare cases of identifiable individuals;

(G) Preparation, including any discussions or work product, on behalf of a public governmental body or its representatives for negotiations with employee groups;

(H) Software codes for electronic data processing and documentation thereof;

(I) Specifications for competitive bidding, until either the specifications are officially approved by the public governmental body or the specifications are published for bid;

(J) Sealed bids and related documents, until the bids are opened; and sealed proposals and related documents or any documents related to a negotiated contract until a contract is executed, or all proposals are rejected;

(K) Individually identifiable personnel records, performance ratings, or records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries, and lengths of service of officers and employees of public agencies once they are employed as such;

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

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

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

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

(P) Operational guidelines and policies developed, adopted, or maintained by any public agency responsible for law enforcement, public safety, first response, or public health for use in responding to or preventing any critical incident which is or appears to be terrorist in nature and which has the potential to endanger individual or public safety or health. Nothing in this exception shall be deemed to close information regarding expenditures, purchases, or contracts made by an agency in implementing these guidelines or policies. When seeking to close information pursuant to this exception, the agency shall affirmatively state in writing that 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, 2008;

(Q) Existing or proposed security systems and structural plans of real property owned or leased by a public governmental body, and information that is voluntarily submitted by a non-public entity owning or operating an infrastructure to any public governmental body for use by that body to devise plans for protection of that infrastructure, the public disclosure of which would threaten public safety:

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

(2) When seeking to close information pursuant to this exception, the public governmental body shall affirmatively state in writing that disclosure would impair the public governmental body's ability

to protect the security or safety of persons or real property and shall in the same writing state that the public interest in non-disclosure outweighs the public interest in disclosure of the records;

(3) Records that are voluntarily submitted by a non-public entity shall be reviewed by the receiving agency within 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; and

(4) This exception shall sunset on December 31, 2008.

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

(S) Credit card numbers, personal identification numbers, digital certificates, physical and virtual keys, access codes, or authorization codes that are used to protect the security of electronic transactions between a public governmental body and a person or entity doing business with a public governmental body. Nothing in this section shall be deemed to close the record of a person or entity using a credit card held in the name of a public governmental body or any record of a transaction made by a person using a credit card or other method of payment for which reimbursement is made by a public governmental body.
(RSMo. § 610.021) (Ord. 349, passed 9-10-2005)

§ 34.052 ELECTRONIC TRANSMISSIONS; PUBLIC RECORDS.

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 of the custodian or records in the same format. The provisions of this section shall only apply to messages sent to two or more members of that body so that, when counting the sender, a majority of the body's members are copied. Any such message received by the custodian or at the member's office computer shall be a public record subject to the exception of RSMo. § 610.021.
(RSMo. § 610.025) (Ord. 349, passed 9-10-2005)

§ 34.053 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 division (A) above shall be given at least 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 § 34.051 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 § 34.051. The notice shall be the same as described in division (A) above.

(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.
(RSMo. §§ 610.020.1 to 610.020.3, 610.020.5, and 610.022.2) (Ord. 349, passed 9-10-2005)

§ 34.054 CLOSED MEETINGS, HOW HELD.

(A) Except as set forth in § 34.053(C), 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 § 34.051 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. (RSMo. §§ 610.022.1 and 610.022.3) (Ord. 349, passed 9-10-2005)

§ 34.055 JOURNALS OF MEETINGS AND RECORDS OF VOTING.

(A) (1) Except as provided in § 34.051, rules authorized pursuant to Article III of the state's 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.

(2) 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.
(RSMo. §§ 610.015 and 610.020.7) (Ord. 349, passed 9-10-2005)

§ 34.056 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 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. (RSMo. §§ 610.020.2 and 610.020.4) (Ord. 349, passed 9-10-2005)

§ 34.057 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.
(RSMo. § 610.024) (Ord. 349, passed 9-10-2005)

§ 34.058 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 business day following the date the request is received by the custodian of records of a public governmental body. If records are requested in a certain format, the public body shall provide the records in the requested format, if such format is available. If access to the public record is not granted immediately, the custodian shall give a detailed explanation of the cause for further delay and the place and earliest time and date that the record will be available for inspection. This period for document production may exceed three days for reasonable cause.

(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 business day following the date that the request for the statement is received.
(RSMo. § 610.023) (Ord. 349, passed 9-10-2005)

§ 34.059 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 RSMo. § 32.091, shall not exceed $0.10 per page for a paper copy not larger than nine by 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. The custodian shall charge $15 per hour for document search; provided however, that the fee for copies of bond receipts and other bond documents of the Municipal Court and/or city's Police Department shall be $1 for the first page and $1 for each additional page per request and no hourly charge for document search shall be levied for such documents.

(2) Fees for providing access to public records maintained on computer facilities, recording tapes or disks, videotapes or films, pictures, maps, slides, graphics, illustrations, or similar audio or visual items or devices, and for paper copies larger than nine by 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.
(RSMo. § 610.026) (Ord. 349, passed 9-10-2005)

LAW ENFORCEMENT ARREST REPORTS AND RECORDS, INCIDENT REPORTS, AND THE LIKE

§ 34.070 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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

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 years after the commission of the offense, whichever date earliest occurs; or

(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.
(RSMo. § 610.100) (Ord. 349, passed 9-10-2005)

§ 34.071 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 division (C) below or RSMo. § 320.083, 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 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 § 34.073.

(B) Except as provided in divisions (C) and (D) below, 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, 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 § 34.073 for purposes of investigation of any civil claim or defense as provided by this division (C). Any individual, his or her attorney or insurer involved in an incident or whose property is involved in an incident, upon written request, may obtain a complete unaltered and unedited incident report concerning the incident and may obtain access to other records closed by the Police Department pursuant to this section. Within 30 days of such request, the Police Department shall provide the requested material or file a motion pursuant to this division (C) 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 RSMo. § 610.100(4), 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 division (C).

(D) Any person may apply pursuant to this division (D) 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 $1,000. 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 RSMo. § 610.027.

(E) The victim of an offense, as provided in RSMo. Chapter 566, may request that his or her identity be kept confidential until a charge relating to such incident is filed.
(RSMo. §§ 610.100(2) to 610.100(4), 610.100(6), and 610.100(7)) (Ord. 349, passed 9-10-2005)

§ 34.072 EFFECT OF NOLLE PROS, DISMISSAL AND SUSPENDED IMPOSITION OF SENTENCE ON RECORDS.

If the person arrested is charged but the case is subsequently nolle prossed, dismissed, or the accused is found not guilty, or imposition of sentence is suspended in the court in which the action is prosecuted,

official records pertaining to the case shall thereafter be closed records when such case is finally terminated, except as provided in § 34.073 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 RSMo. § 552.030, official records pertaining to the case shall thereafter be closed records upon such findings, except that the disposition may be accessed only by law enforcement agencies, child care agencies, facilities as defined in RSMo. § 198.006, and in-home services provider agencies as defined in RSMo. § 660.250, in the manner established by § 34.073. (RSMo. § 610.105) (Ord. 349, passed 9-10-2005)

§ 34.073 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 RSMo. § 43.507. The closed records shall be available to: criminal justice agencies for the administration of criminal justice pursuant to RSMo. § 43.500, criminal justice employment, screening persons with access to criminal justice facilities, procedures, and sensitive information; to law enforcement agencies for issuance or renewal of a license, permit, certification, or registration of authority from such agency including, but not limited to, watchmen, security personnel, private investigators, and persons seeking permits to purchase or possess a firearm; those agencies authorized by RSMo. § 43.543, to submit and when submitting fingerprints to the central repository; the Sentencing Advisory Commission created in RSMo. § 558.019, for the purpose of studying sentencing practices in accordance with RSMo. § 43.507; to qualified entities for the purpose of screening providers defined in RSMo. § 43.540; 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 RSMo. §§ 595.010 to 595.075, Department of Health and Senior Services for the purpose of licensing and regulating facilities and regulating in-home services provider agencies and federal agencies for purposes of criminal justice administration, criminal justice employment, child, elderly, or disabled care, and for such investigative purposes as authorized by law or presidential executive order.

(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 state's criminal records repository shall be in accordance with RSMo. § 43.509. 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. (RSMo. § 610.120) (Ord. 349, passed 9-10-2005)

§ 34.074 "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 § 34.071. 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. (RSMo. § 610.150) (Ord. 349, passed 9-10-2005)

§ 34.075 DAILY LOG OR RECORD MAINTAINED BY POLICE DEPARTMENT OF CRIMES, ACCIDENTS, OR COMPLAINTS; PUBLIC ACCESS TO CERTAIN INFORMATION.

The city's Police Department, if it maintains a daily log or record that lists suspected crimes, accidents, or complaints, shall make available the following information for inspection and copying by the public:

(A) The time, substance, and location of all complaints or requests for assistance received by the Police Department;

(B) The time and nature of the Police Department's response to all complaints or requests for assistance; and

(C) If the incident involves an alleged offense or infraction:

(1) The time, date, and location of occurrence;

(2) The name and age of any victim, unless the victim is a victim of a crime under RSMo. Chapter 566;

(3) The factual circumstances surrounding the incident; and

(4) A general description of any injuries, property, or weapons involved.
(RSMo. § 610.200) (Ord. 349, passed 9-10-2005)

§ 34.999 PENALTY.

(A) The remedies provided by this section against public governmental bodies shall be in addition to those provided by any other provision of law. Any aggrieved person, taxpayer to, or citizen of, this state, may seek judicial enforcement of the requirements of RSMo. §§ 610.010 to 610.026. Suits to

enforce RSMo. §§ 610.010 to 610.026, shall be brought in the County Circuit Court in which the public governmental body has its principal place of business. Upon service of a summons, petition, complaint, counterclaim, or cross-claim in a civil action brought to enforce the provisions of RSMo. §§ 610.010 to 610.027, the custodian of the public record that is the subject matter of such civil action shall not transfer custody, alter, destroy, or otherwise dispose of the public record sought to be inspected and examined, notwithstanding the applicability of an exemption pursuant to RSMo. § 610.021, or the assertion that the requested record is not a public record until the court directs otherwise.

(B) Once a party seeking judicial enforcement of RSMo. §§ 610.010 to 610.026 demonstrates to the court that the body in question is subject to the requirements of RSMo. §§ 610.010 to 610.026, and has held a closed meeting, record, or vote, the burden of persuasion shall be on the body and its members to demonstrate compliance with the requirements of RSMo. §§ 610.010 to 610.026.

(C) Upon a finding by a preponderance of the evidence that a public governmental body or a member of a public governmental body has knowingly violated RSMo. §§ 610.010 to 610.026, the public governmental body or the member shall be subject to a civil penalty in an amount up to $1,000. If the court finds that there is a knowing violation of RSMo. §§ 610.010 to 610.026, the court may order the payment by such body or member of all costs and reasonable attorney fees to any party successfully establishing a violation. The court shall determine the amount of the penalty by taking into account the size of the jurisdiction, the seriousness of the offense, and whether the public governmental body or member of a public governmental body has violated RSMo. §§ 610.010 to 610.026, previously.

(D) Upon a finding by a preponderance of the evidence that a public governmental body or a member of a public governmental body has purposely violated RSMo. §§ 610.010 to 610.026, the public governmental body or the member shall be subject to a civil penalty in an amount up to $5,000. If the court finds that there was a purposeful violation of RSMo. §§ 610.010 to 610.026, then the court shall order the payment by such body or member of all costs and reasonable attorney fees to any party successfully establishing such a violation. The court shall determine the amount of the penalty by taking into account the size of the jurisdiction, the seriousness of the offense, and whether the public governmental body or member of a public governmental body has violated RSMo. §§ 610.010 to 610.026, previously.

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

(F) A public governmental body which is in doubt about the legality of closing a particular meeting, record, or vote may bring suit at the expense of that public governmental body in the County Circuit

Court of the public governmental body's principal place of business to ascertain the propriety of any such action, or seek a formal opinion of the attorney general or an attorney for the governmental body. (RSMo. § 610.027)

(G) If the court finds by a preponderance of the evidence that the law enforcement officer or agency has purposely violated § 34.071, the officer or agency shall be subject to a civil penalty in an amount up to $5,000 and the court shall order payment by such officer or agency of all costs and attorney fees, as provided in RSMo. § 610.027. The court shall determine the amount of the penalty by taking into account the size of the jurisdiction, the seriousness of the offense, and whether the law enforcement officer or agency has violated this section previously.
(Ord. 349, passed 9-10-2005)