

# St. Louis City Charter

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## *St. Louis City Charter Article I*

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### Article I Incorporation\*

\* City Counselor Ops.: 8513-A, 9228

Section 1 Body corporate; seal; enumeration of powers.

The inhabitants of The City of St. Louis, as its limits now are or may hereafter be, shall be and continue a body corporate by name "The City of St. Louis," and as such shall have perpetual succession, may have a corporate seal, and sue and be sued.

It shall have power:

Constitution:

Art. 6 § 32(a) Amendment of Charter of St. Louis

Art. 6 § 32(b) Revision of Charter of St. Louis

City Counselor Ops. 10236

Cases:

When the city is sued as a joint tortfeasor, joinder of other joint tortfeasors can be required. *Kilroy v. City of St. Louis*, 145 S.W. 769, 242 Mo. 79 (1912).

The city derives its power from its charter which must be consistent with the Constitution and state laws. *State v. Armstrong*, 286 S.W. 705, 315 Mo. 298 (1926).

It is presumed that the city considers the public interest when it passes ordinances regulating and licensing occupations. *Ex parte Tarling*, 241 S.W. 929 (1922).

The city's powers to license and regulate occupations under its charter are as broad as those conferred by statute. *Ex parte Tarling*, 241 S.W. 929 (1922).

McQuillin:

Ch. 3 Creation of Municipal Corporations

(1) General and special taxes. To assess, levy and collect taxes for all general and special purposes on all subjects or objects of taxation.

Constitution:

Art. 10 Taxation.

Art. 6 § 23 et seq. Local Finances

V.A.M.S.:

137.485--137.550 Property taxes

92.010 et seq. Generally, taxation in St. Louis and Kansas City

City Counselor Ops.: 8050, 8067, 8242, 9746, 10123, 10508

Cases:

Absent express statutory authority the city's Board of Equalization cannot change the valuation of merchant's property. *State v. Alt*, 123 S.W. 883, 224 Mo. 493 (1909).

City cannot tax shares of stock held by resident in foreign corporation whose property is out of state and not subject to state taxation. *State v. Lesser*, 141 S.W. 888, 237 Mo. 310 (1911).

This subsection is not limited to property taxes but includes persons and objects subject to license taxes. *Automobile Gasoline Co. v. City of St. Louis*, 32 S.W. 2d 281, 326 Mo. 435 (1930).

This subsection permits the city to levy any tax not contrary to other charter constitutional or statutory provisions. *State v. Blaine*, 58 S.W. 2d 975, 332 Mo. 582 (1933).

The statutory requirement that occupations must be named in the charter applies only to license taxes on occupations (selling gasoline) and not excise taxes or privileges (storing gasoline). *State v. Blaine*, 58 S.W. 2d 975, 332 Mo. 582 (1933).

Authority for city to tax for revenue must be specific or clearly implied. *Carter Carburetor Corporation v. City of St. Louis*, 203 S.W. 2d, 356 Mo. 646 (1947).

A tax exceeding statutory limits was illegal and punishment could not be imposed for refusal to pay. *Ex parte Tarling*, 241 S.W. 929 (1922).

St. Louis has the power to levy and collect, as a license fee, a tax on restaurants to promote conventions and tourism. *Ruggeri v. City of St. Louis*, 441 S.W. 2d 361 (1969).

Fact that Federal and State agencies exempt facility from income or other taxes is immaterial to issue of whether in constitutional sense it is used for purely charitable purpose and is therefore exempt from taxation. *Defendant's Townhouse, Inc. v. Kansas City*, 441 S.W. 2d 365 (1969).

McQuillin:

Ch. 44 Taxation

(2) Classifications for taxation. To adopt such classifications of the subjects and objects of taxation as may not be contrary to law.

City Counselor Ops.: 8067, 8242, 8748

Cases:

The city is authorized to classify taxable occupations (merchants) for license taxes. *Automobile Gasoline Co. v. City of St. Louis*, 32 S.W. 2d 281, 326 Mo. 435 (1930).

The classification must be reasonable in fact; the validity is determined by general law. *Edmonds v. City of St. Louis*, 156 S.W. 2d 619, 348 Mo. 1063 (1941).

License tax imposed on gas company was a valid subclassification of merchants although there was only one member of the class. *Ex parte Holman*, 191 S.W. 1109, 197 Mo. App. 70 (1917).

McQuillin:

44.19--44.22 Uniformity

(3) Special assessments. To make special assessments for local improvements.

V.A.M.S.:

Ch. 98 Public works and special assessments therefor condemnation

Cases:

Special assessments can only be made for local improvements. Memorials are not local improvements and will not support special assessments on adjacent properties. *City of St. Louis v. Pope*, 126 S.W. 2d 1201, 344 Mo. 479 (1938).

McQuillin:

Ch. 38 Special Taxation and Local Assessments

(4) Contracts. To contract and be contracted with.

V.A.M.S.:

432.070--432.080 Contracts

City Counselor Ops.: 8157A, 8185, 9746, 9987

Cases:

The city is authorized to make leases, and will be bound by their terms. American Press v. City of St. Louis, 284 S.W. 482, 314 Mo. 288 (1926).

McQuillin:

Ch. 29 Contracts in General

History:

Submission Ordinance No. 56860

Submission Ordinance Approved November 27, 1974.

Amendment Substance: repeal paragraph (4) of Section 1, relating to contracting powers of the City; enacting a new paragraph (4) of Section 1, relating to the same subject, empowering the City to contract and to contract for services performed by City employees in Classified Services, notwithstanding Article XVIII of the Charter, as amended.

Voter Rejection Date: April 1, 1975.

Submission Ordinance No. 57156

Submission Ordinance Approved March 17, 1976.

Amendment Substance: repealing Section 1, paragraph "(4)," and substituting in lieu thereof a new paragraph (4) to permit the Mayor and Board of Aldermen by ordinance, notwithstanding provisions of Article XVIII, Civil Service, to contract for services performed by employees in the classified service procurement.

Voter Rejection Date: August 3, 1976.

Submission Ordinance No. 58647

Submission Ordinance Approved August 31, 1982

Amendment Substance: deletion of paragraph 4 and substituting a new paragraph 4 relating to contracting with not for profit hospital management corporation.

Rejected by Voters

(5) Creation of indebtedness. To incur debts by borrowing money or otherwise and to give any appropriate evidence thereof.

V.A.M.S.:

95.010--95.170 Financial administration and indebtedness

McQuillin:

39.07--39.16 Power to Borrow, Loan and Give Notes or Issue

Bills

39.17--39.37 Power to Incur Indebtedness and Make Expenditures

(6) Issuance of bonds and notes. To issue and give, sell, pledge or in any manner dispose of negotiable or non-negotiable, interest-bearing or non-interest-bearing, bonds or notes of the city, upon the credit of the city or solely upon the credit of specific property owned by the city or solely upon the credit of income derived from and property used in connection with any public utility owned or operated by the city or solely upon the credit of the proceeds of special assessments for local improvements or upon any two or more of such credits.

McQuillin:

39.07--39.16 Power to Borrow, Loan and Give Notes or Issue Bills

Ch. 43 Municipal Bonds

(7) Expenditures. To expend the money of the city for all lawful purposes.

City Counselor Ops.: 8057, 8060, 8061, 8072, 8073, 8081, 8094, 8106

McQuillin:

39.17--39.37 Power to Incur Indebtedness and Make Expenditures

39.60--39.70 Appropriations

(8) Acquisition and disposition of property. To acquire or receive and hold, maintain, improve, sell, lease, mortgage, pledge or otherwise dispose of property, real or personal, and any estate or interest therein within or without the city or state.

City Counselor Ops.:

7898, 7907, 8028, 8096, 8157A, 8184, 8190, 8315, 8393, 8431, 8435, 8500, 8592, 9020, 9678, 9948, 10008, 10015, 10334, 10403, 10508

Cases:

Public funds may be used to build a public hall because it serves a public use. *Halbrueggar v. City of St. Louis*, 262 S.W. 379, 302 Mo. 573 (1924).

The city is authorized to lease premises for sheriff's offices, and will be bound by its terms. *American Press v. City of New York*, 284 S.W. 482, 314 Mo. 288 (1926).

The construction and maintenance of an airport is a municipal purpose within the city's power. *Dysart v. City of St. Louis*, 11 S.W. 2d 1045, 321 Mo. 514 (1928).

It is not unlawful to temporarily lease public property to private citizens pending decision on best manner of public use. *Heger v. City of St. Louis*, 20 S.W. 2d 665, 323 Mo. 1031 (1929).

Alteration of park property obtained through condemnation for another public purpose, constructing an expressway, is within city's authority. *Kirkwood v. City of St. Louis*, 351 S.W. 2d 781 (1961).

The city may use park land, obtained by condemnation, for street purposes. *Kirkwood v. City of St. Louis*, 351 S.W. 2d 781 (1961).



The acquisition, improvement and development of land by the city outside its corporate limits for an airport is an authorized public purpose. *American Airlines Inc. v. City of St. Louis*, 368 S.W. 2d 161 (1963).

A cooperative agreement between the city and a school district for the erection by the school district of a library building on city owned property was within the city's power. *School District of Kansas City v. Kansas City*, 382 S.W. 2d 688 (1964).

The delegation to a commission of responsibility for management and operation of an airport is not an improper delegation of legislative authority. *Clay v. City of St. Louis*, 495 S.W. 2d 672 (1973).

Attempt by city to transfer by warranty deed a public street to a private hospital violated the state constitution. *St. Louis Children's Hosp. v. Conway*, 582 S.W. 2d 687 (1979).

McQuillin:

Ch. 28 Corporate Property

(9) Eminent domain. To condemn private property, real or personal, or any easement or use therein for public use within or without the city or state.

V.A.M.S.:

82.790--82.800 Condemnation of property outside city

82.240 Parks, cemeteries may be provided for

82.450 Corporation may condemn land for market places

Ch. 88 Public works and special assessments therefor--condemnation

City Counselor Ops.:

8028, 8184

Cases:

When city entered land to construct permanent improvements for contemplated public use, acquisition of land through eminent domain by condemnation was inferred. *Langenberg v. City of St. Louis*, 197 S.W. 2d 621, 355 Mo. 634 (1946).

The acquisition, improvement and development of land by the city outside its corporate limits for an airport is authorized as a public purpose. *American Airlines v. City of St. Louis*, 368 S.W. 2d 161 (1963).

The delegation to a commission of responsibility for management and operation of an airport is not an improper delegation of legislative authority. *Clay v. City of St. Louis*, 495 S.W. 2d 672 (1973).

McQuillin:

Ch. 32 Eminent Domain

(10) Trusts. To take and hold property within or without the city or state upon trust, and to administer trusts.

McQuillin:

28.25--28.36 Holding Property as Trustee

(11) Public utilities. To acquire, construct, own, operate and maintain or sell, lease, mortgage, pledge or otherwise dispose of public utilities or any estate or interest therein or any other utility of service to the city, its inhabitants, or any part thereof.

V.A.M.S.:

Ch. 91 Municipally owned utilities

Cases:

When city entered land to construct water mains intended as permanent improvements for contemplated public use, acquisition of land through eminent domain by condemnation was inferred. *Langenberg v. City of St. Louis*, 197 S.W. 2d 621, 355 Mo. 634 (1946).

McQuillin:

## Ch. 35 Municipal Ownership of Public Utilities

(12) Franchises. To grant franchises for public utilities.

V.A.M.S.:

82.230 Regulation of public franchises

McQuillin:

## Ch. 34 Franchises

(13) Regulation of public utilities. To regulate the construction, maintenance, equipment, operation, service, rates and charges of public utilities and compel, from time to time, reasonable extensions of facilities for such service.

V.A.M.S.:

71.520 et seq. Public utilities

City Counselor Ops.:

7715, 8262, 9807

Cases:

This subsection is inoperative in so far as state statute has provided a uniform system of regulation for public utilities. *State v. Public Service Commission*. 192 S.W. 958, 270 Mo. 429 (1917).

City authorized to pass safety ordinance for street car drivers that modify but was not inconsistent with state common law. *State v. Reynolds*, 244 S.W. 929, 295 Mo. 375 (1922).

Ordinance prescribing use of bus transfers void as attempted rate regulation of street railway corporations controlled by state law. *Ex parte Packman*, 296 S.W. 366, 317 Mo. 732 (1927).

McQuillin:

4.153--4.158 Legislative Control Over Public Utilities

(14) Streets, alleys, parks, sewers, etc. To establish, open, relocate, vacate, alter, widen, extend, grade, improve, repair, construct, reconstruct, maintain, light, sprinkle and clean public highways, streets, boulevards, parkways, sidewalks, alleys, parks, public grounds and squares, wharves, bridges, viaducts, subways, tunnels, sewers and drains, and regulate the use thereof.

V.A.M.S.:

82.190 City has exclusive control of public highways

City Counselor Ops.:

8063, 8075, 8157A, 8237, 8285, 8324, 8355, 9258, 9336, 9402, 9785, 9818, 9829(IV), 10008, 10015, 10199, 10241, 10258, 10408

Cases:

Only the branch of city government authorized to grant franchise to use city streets may waive forfeiture of franchise, *State v. West End Light and Power Co.*, 152 S.W. 76, 246 Mo. 653 (1912).

Empowered with full control of streets, city may require railroad to abolish grade crossings and reunite streets in the interest of public health and safety. *American Tobacco Co. v. Missouri Pac. Ry. Co.*, 157 S.W. 502, 247 Mo. 374 (1912).

City has complete power to open or close streets restricted by constitutional prohibition against taking private property for public use without compensation. *Gorman v. Chicago, B&QR Co.*, 164 S.W. 509, 255 Mo. 483 (1914).

The right of access is the only right appurtenant to private property which is not included within city's power under this subsection. *Gorman v. Chicago, B&QR Co.*, 164 S.W. 509, 255 Mo. 483 (1914).

State school board need not comply with city's sewer requirements when state standards established. *Board of Education v. City of St. Louis*, 184 S.W. 975, 267 Mo. 356 (1916).

Ordinance regulating use of streets only valid if of general application *Ex parte Lerner*, 218 S.W. 331, 281 Mo. 18 (1920).

City authorized to pass safety ordinance for street car drivers that modified but was not inconsistent with state common law. *State v. Reynolds*, 244 S.W. 929, 295 Mo. 375 (1922).

City can require that public carriers meet certification requirements to obtain license to use city streets. *Ex parte Lockhart*, 171 S.W. 2d 660, 350 Mo. 1220 (1943).

There is no inherent right to use streets or highways as place of public business. *Ex parte Lockhart*, 171 S.W. 2d 660, 350 Mo. 1220 (1943).

When city authorized to build either a free or toll bridge it is not bound by past decisions regarding fees. *City of St. Louis v. Cavanaugh*, 207 S.W. 2d 449, 357 Mo. 204 (1947).

This subsection does not limit state police power to establish limited access highways. *Handlan-Buck Company v. State Highway Commission*, 315 S.W. 2d 219 (1958).

Under its police power city may enact parking meter ordinance. *Automobile Club of Missouri v. City of St. Louis*, 334 S.W. 2d 355 (1960).

City may alter park property obtained through condemnation to build public street. *Kirkwood v. City of St. Louis*, 351 S.W. 2d 781 (1961).

Under city's broad and comprehensive power to regulate use of streets rental charge for occupation of street by telegraph poles was valid. *City of St. Louis v. Western Union, Tel. Co.*, 149 U.S. 465, 13 S.C. 990 (1893).

Gas company was subject to city regulation having no vested right to use streets for underground electric wires. *State of Missouri v. Murphy*, 170 U.S. 78 (1898).

The city may use park land, obtained by condemnation, for street purposes. *Kirkwood v. City of St. Louis*, 351 S.W. 781 (1961).

Abutter's right of access may not be taken without compensation, but right does not extend to every foot of frontage as against the exercise of police power. *State v. Meier*, 388 S.W. 2d 855 (1965).

Motel owner could not recover for alleged decrease in value of motel due to diversion of traffic in connection with construction of limited access highway abutting motel property. *State v. Meier*, 388 S.W. 2d 855 (1965).

Land obtained through grant restricting use to park purposes may not be used for a public street. *City of St. Louis v. Bedal*, 394 S.W. 2d 391 (1965).

An ordinance authorizing the erection of barricades on streets, enacted for the purpose of facilitating orderly travel, did not violate a statute prohibiting street obstructions. *State ex rel. Schmitz v. City of St. Louis*, 551 S.W. 2d 848 (1977).

Abutter's right to access is subject to reasonable restriction under police power directed towards facilitating travel over the streets. *State ex rel. Schmitz V. City of St. Louis*, 551 S.W. 2d 848 (1977).

McQuillin:

Ch. 30 Streets and Alleys

Ch. 31 Sewers and Drains

25.50--28.54 Public Parks and Squares

(15) Public buildings and other property. To acquire, provide for, construct, regulate and maintain and do all things relating to all kinds of public buildings, structures, markets, places, works and improvements.

City Counselor Ops.: 8028, 8157A, 8184, 8435

Cases:

Public funds may be used to build a public hall because it serves a public use. *Halbrueggar v. City of St. Louis*, 262 S.W. 379, 302 Mo. 573 (1924).

An airport is a public structure. *Dysart v. City of St. Louis*, 11 S.W. 2d 1045, 321 Mo. 526 (1928).

The city is liable for the negligence of contractors hired to build public improvements. *Stifel v. City of St. Louis*, 181 S.W. 577 (1916).

(16) Harbor, wharves and ferries. To provide and maintain a harbor and wharves and regulate the use thereof, and impose wharfage and other charges therefor; license and regulate ferries and other boats; grant ferry privileges and regulate ferry charges; rent or lease for not exceeding twenty-five years portions of the wharf for any purpose tending to facilitate the trade of the city.

V.A.M.S.:

Ch. 237 Ferries and wharves

Ch. 154 Taxation of boats and vessels

City Counselor Ops.: 8712, 9078, 9617, 9965, 10270, 10278

Cases:

City can demand removal of private property obstructing public wharf. *Hafner Mfg. Co. v. City of St. Louis*, 172 S.W. 28, 262 Mo. 621 (1914).

Protection of private boats moored at public wharf not public duty. *City of St. Louis v. the Maggie P.*, 25 F. 202 (1885).

An agreement between the city and a corporation granting the corporation the inclusive use of a municipal dock for a maximum of twenty years was properly termed a lease agreement as distinguished from a franchise and constituted a valid and binding contract. *St. Louis Terminals v. City of St. Louis*, 535 S.W. 2d 593 (1976).

In granting lease of dock by city, tenant is entitled to all rights ordinarily passed by lease, including possession and profits. *St. Louis Terminal v. City of St. Louis*, 535 S.W. 2d 593 (1976).

McQuillin:

19.88 Harbor and Port Regulations

(17) Watercourses. To improve watercourses and regulate the use thereof.

City Counselor Ops.: 8080, 9791

(18) Water rates. To establish, impose and enforce water rates and rates and charges for public utilities or other service, products or conveniences operated, rendered or furnished by the city.

V.A.M.S.:

Ch. 250 Sewerage systems and water works

McQuillin:

35.37--35.37K Rates and Service Charges

(19) Sanitary system. To provide and maintain a sanitary system.

V.A.M.S.:

Ch. 250 Sewerage Systems and water works

Cases:

City can require replacement of privies by water closets in private property. *City of St. Louis v. Nash*, 260 S.W. 985 (1924).

A portion of a city ordinance requiring all dwelling units to have a tub or bath connected to hot and cold water was unconstitutional as applied to a landowner whose buildings were 70 years old and had no sale or loan value. *City of St. Louis v. Brune*, 515 S.W. 2d 471 (1974).

McQuillin:

24.219--24.241 Public Health and Sanitation in General

(20) Fire department. To provide and maintain a fire department.

V.A.M.S.:

71.370--71.510 Fire protection

Cases:



City may validly amend Charter so as to require compensation of fire department employees to be at least equal to that of police department employees, which is determined by the State. State ex rel. St. Louis Fire Fighters Association Local No. 73 v. Stemmler, 479 S.W. 2d 456 (1972).

City charter provision that salaries of firemen shall not be less than those of corresponding ranks of police officers whose pay is fixed by the State General Assembly is not invalid as an improper delegation of legislative responsibility. State ex rel. St. Louis Fire Fighters Association Local No. 73 v. Stemmler, 479 S.W. 2d 456 (1972).

McQuillin:

Ch. 45 Fire and Police Departments

(21) Police and excise departments. To provide and maintain police and excise departments when permitted by law.

V.A.M.S.:

84.010--84.340 Police department in St. Louis

Cases:

Existence of a state police force financed by the municipality is permissible. State v. Gunn, 326 S.W. 2d 314 (1959).

McQuillin:

Ch. 45 Fire and Police Departments

(22) Sewage, ashes and garbage. To collect and dispose of sewage, offal, ashes, garbage and refuse, or to license and regulate such collection and disposal.

City Counselor Ops.: 8184

Cases:

A tax on junk merchants protects the welfare of citizens and is a valid exercise of the city's police power. *City of St. Louis v. Baskowitz*, 201 S.W. 870, 273 Mo. 543 (1918).

McQuillin:

4.242--24.255 Control, Collection and Disposal of Waste

4.256--24.268 Sewage, Drainage, and Water Supply

(23) Regulation of business. To license and regulate all persons, firms, corporations, companies and associations engaged in any business, occupation, calling, profession or trade.

City Counselor Ops.: 8240, 8262, 8378, 9334, 9953, 10286, 10334

Cases:

Ordinance invalid because not applicable to all street vendors. *Ex parte Lerner*, 218 S.W. 331, 281 Mo. 18 (1920).

Ordinance requiring moving companies to register with city before moving property valid. *Wagner v. City of St. Louis*, 224 S.W. 413, 284 Mo. 410 (1920).

Ordinance providing that businesses be closed on Sunday valid exercise of police power. *Komen v. City of St. Louis*, 289 S.W. 838, 316 Mo. 9 (1926).

Ordinance requiring advertisement for sale of goods to state advertiser is dealer in those goods is valid. *City of St. Louis v. Southcombe*, 8 S.W. 2d 1001, 320 Mo. 865 (1928).

Solicitation of funds for charity is an occupation or calling and may be regulated. *Ex parte Williams*, 139 S.W. 2d 485, 345 Mo. 1121 (1940).

If the moving of household goods and office furniture is a business it can be regulated. *Mike Berniger Moving Co. v. O'Brien*, 240 S.W. 481 (1922).

A tax on vending machines was a revenue measure not a regulatory ordinance. *Edmonds v. City of St. Louis*, 156 S.W. 2d 619, 348 Mo. 1063 (1941).

An "earnings tax" is a general revenue measure and not a license tax under the city's police power. *Carter Carburetor Corporation v. City of St. Louis*, 203 S.W. 2d 438 (1947).

Investigation and licensing of gas company, a public service corporation, was within city's authority. *Ex parte Holman*, 191 S.W. 1109, 197 Mo. App. 70 (1917).

A grant of authority to license businesses does not carry with it the authority to regulate them. *Anderson v. City of Olivette*, 518 S.W. 2d 34 (1975).

McQuillin:

Ch. 26 Municipal Licenses and Permits

(24) License taxes. To impose a license tax upon any business, vocation, pursuit, calling, animal or thing.

V.A.M.S.:

71.610 et seq. Taxing powers

82.310 et seq. License collector in cities of 300,000 inhabitants or more

150.350 Manufacturer taxation and collection in St. Louis city

150.090 Merchant taxation and collection in St. Louis city

City Counselor Ops.: 8067, 10286

Cases:

Court adopted construction that an ordinance imposing a license tax on all merchants was superseded by an ordinance imposing a license tax on all merchants to avoid invalidity caused by double taxation.

Automobile Gasoline Co. v. City of St. Louis, 32 S.W. 2d 281, 326 Mo. 435 (1930).

An "earnings tax" is a general revenue measure and not a license tax. Carter Carburetor Corporation v. City of St. Louis, 203 S.W. 2d 438, 356 Mo. 646 (1947).

Investigation of gas company, a public service corporation, to determine the amount of license tax was within City's authority. Ex parte Holman, 191 S.W. 1109, 197 Mo. App. 70 (1917).

McQuillin:

26.32--26.42a Charges, Taxes and Fees

(25) Nuisances, etc. To define and prohibit, abate, suppress and prevent or license and regulate all acts, practices, conduct, business, occupations, callings, trades, uses of property and all other things whatsoever detrimental or liable to be detrimental to the health, morals, comfort, safety, convenience or welfare of the inhabitants of the city and all nuisances and causes thereof.

City Counselor Ops.: 8240, 8262, 8357, 8849, 9334, 9916, 9953, 10325

Cases:

City may license plumbers since plumbing related to public health. Ex parte Smith, 132 S.W. 607, 231 Mo. 111 (1910).

Regulation of signs and billboards was valid since possible to find that they were injurious to health, etc. St. Louis Gunning Advertisement Co. v. City of St. Louis, 137 S.W. 929, 235 Mo. 99 (1911).

Business of junk dealers poses risk of disease and theft warranting regulation. City of St. Louis v. Baskowitz, 201 S.W. 870, 273 Mo. 543 (1918).

Ordinance enacted under city's police power must be of general application. Ex parte Lerner, 218 S.W. 331, 281 Mo. 18 (1920).

City authorized to pass safety ordinance for street car drivers that modified but was not inconsistent with state common law. *State v. Reynolds*, 2010 S.W. 929, 295 Mo. 375 (1922).

Only those callings etc. which detrimentally affect the public welfare come within the city's police power under this subsection. *State v. McKelvey*, 256 S.W. 474, 301 Mo. 1 (1923).

Zoning ordinance restricting business to certain areas for aesthetic reasons invalid when business not a nuisance. *City of St. Louis v. Evraiff*, 256 S.W. 489, 301 Mo. 231 (1923).

Ordinance providing that businesses be closed on Sunday valid exercise of police power. *Komen v. City of St. Louis*, 289 S.W. 828, 316 Mo. 9 (1926).

Ordinance requiring advertisement for sale of goods to contain fact seller is dealer was designed to catch unlicensed merchants consistent with purposes of this subsection. *City of St. Louis v. Southcombe*, 8 S.W. 2d 1001, 320 Mo. 865 (1928).

Solicitation of funds for charity may be regulated. *Ex parte Williams*, 139 S.W. 2d 485 (1940).

City can regulate construction and materials of buildings, inspect them, prevent their use when necessary, and require alteration for safety. *Kalbfell v. City of St. Louis*, 211 S.W. 2d 911, 357 Mo. 987 (1948).

Conditions of moving industry warranted regulation by the city for the public welfare. *Mike Berniger Moving Co. v. O'Brien*, 240 S.W. 481 (1922).

City can require replacement of privies by water closets in private property. *City of St. Louis v. Nash*, 260 S.W. 985 (1924).

School lunchrooms although operated by the state must meet city health standards since there is no statute exempting school lunchrooms from local control. *Bredeck v. Board of Education of St. Louis*, 213 S.W. 2d 889 (1948).

The city has the power to license and regulate real estate brokers. *City of St. Louis v. Green*, 353 S.W. 2d 606 (1962).

McQuillin:

24.58--24.92 Municipal Control and Suppression of Nuisances

(26) Location of businesses and occupations. To prescribe limits within which business, occupations and practices liable to be nuisances or detrimental to the health, morals, security or general welfare of the people may lawfully be established, conducted or maintained.

City Counselor Ops.: 8262

Cases:

The power to regulate stone quarries does not include the power to prohibit them. *City of St. Louis v. Atlantic Quarry and Construction Company*, 148 S.W. 948, 244 Mo. 479 (1912).

Ordinance prohibiting street vendors in front of businesses selling same goods invalid because not of general application. *Ex parte Lerner*, 213 S.W. 331, 281 Mo. 18 (1920).

Only those businesses which detrimentally affect the public welfare may be excluded from a prescribed district. *State v. McKelvey*, 256 S.W. 474, 301 Mo. 1 (1923).

Zoning ordinance restricting business to certain areas for aesthetic reasons invalid when business not a nuisance. *City of St. Louis v. Evraiff*, 256 S.W. 489, 301 Mo. 231 (1923).

City can regulate construction and materials of buildings, inspect them, prevent their use when necessary, and require alteration for safety. *Kalbfell v. City of St. Louis*, 211 S.W. 2d 911, 357 Mo. 986 (1948).

(27) Inspection of articles of consumption or use. To inspect, test, measure and weigh any article of consumption or use within the city.

Cases:

The city may require milk dealers to obtain permits to guard against unwholesome milk. *City of St. Louis v. Kellmann*, 243 S.W. 134, 295 Mo. 71 (1922).

McQuillin:

24.396--24.409 Weights, Measures and Fair Trade Dealings

(28) Weights and measures. To establish, regulate, license and inspect weights and measures.

V.A.M.S.:

Ch. 413 Weights and measures

Cases:

Ordinance requiring produce to be sold in containers of certain capacity valid. *Stegmann v. Weeke*, 214 S.W. 137, 279 Mo. 140 (1919).

McQuillin:

24.396--24.409 Weights, Measures and Fair Trade Dealings

(29) Construction of buildings and maintenance of premises. To regulate the construction and materials of all buildings and structures, and to inspect all buildings, lands and places as to their condition for health, cleanliness and safety, and, when necessary, prevent the use thereof and require any alterations or changes necessary to make them healthful, clean or safe.

City Counselor Ops.: 9964

Cases:

City can require all buildings over a certain height to comply with fire standards. *City of St. Louis v. Warren Commission and Investment Co.*, 126 S.W. 166, 226 Mo. 148 (1910).

State school board need not comply with city building requirements when state standards are established. *Board of Education v. City of St. Louis*, 184 S.W. 975, 267 Mo. 356 (1916).

City may close but not demolish movie theater that does not comply with fire code. *Kalbfell v. City of St. Louis*, 211 S.W. 2d 911, 357 Mo. 986 (1948).

City can require replacement of privies by water closets in private property. *City of St. Louis v. Nash*, 260 S.W. 985 (1924).

The city charter does not expressly or by necessary inference empower the city to regulate construction of state buildings on state land in the city. *Paulus v. City of St. Louis*, 446 S.W. 2d 144 (1969).

McQuillin:

24.504--24.562 Building Regulations

(30) Grade crossings. To abolish or prevent grade crossings and provide for safe crossings and compel any street, steam, electric railroad or other transportation company or companies affected thereby to pay all or a part of the cost thereof.

City Counselor Ops.: 8240

Cases:

City can require railroad to build a viaduct over its tracks at its expense. *State v. Missouri Pac. Ry. Co.*, 174 S.W. 73, 262 Mo. 720 (1914).

McQuillin:

24.736--24.742 Separated Crossings, Subways, and Elevated Ways

(31) Children, aged and insane persons. To provide for the support, maintenance and care of children and sick, aged or insane poor persons and paupers.

V.A.M.S.:

10.250 et seq. Board of children's guardians (St. Louis)

210.292--210.298 Family foster home care



City Counselor Ops.: 7828, 8158, 8185

Cases:

City may provide welfare to ablebodied men unable to obtain jobs due to economic conditions. Jennings v. City of St. Louis, 58 S.W. 2d 979, 332 Mo. 173 (1933).

McQuillin:

Ch. 47 Charities and Correction

(32) Public institutions and services. To provide and maintain charitable, educational, recreative, curative, corrective, detentive or penal institutions, departments, functions, facilities, instrumentalities, conveniences and services.

City Counselor Ops.: 7828, 8158, 8184, 8185, 8366, 8435, 9771, 9919

Cases:

City may provide welfare services to ablebodied men unable to obtain jobs due to economic conditions. Jennings v. City of St. Louis, 58 S.W. 2d 979, 332 Mo. 173 (1933).

McQuillin:

Ch. 47 Charities and Correction

(33) General welfare. To do all things whatsoever expedient for promoting or maintaining the comfort, education, morals, peace, government, health, welfare, trade, commerce or manufactures of the city or its inhabitants.

V.A.M.S.:

71.710 Water supply, cities to protect from contamination

71.720 Sale of milk, cities may regulate and provide for inspection

71.730 Food, cities may provide for inspection of animals intended as human food

71.780 Nuisances, injurious to health and welfare, cities empowered to suppress

96.390--96.420 Social Evil Hospital and House of Industry

192.290, 192.310 Rules and regulations of state division of health to supersede local, exceptions

196.230 Food and drugs, state commissioner or local officers may abate violations detrimental to public health

199.080--199.160 Tuberculosis hospitals, cities and counties may form district to acquire and maintain

322.010--322.080 Dogs, control of rabies, mayor may issue quarantine orders

City Counselor Ops.: 8050, 8158, 8184, 8185, 8262, 8849, 9334, 9772, 9811, 9909

Cases:

City can require all buildings over a certain height to comply with fire standards. *City of St. Louis v. Warren Commission and Investment Co.*, 126 S.W. 166, 226 Mo. 148 (1910).

Ordinance prohibiting advertisements of cures for sexual problems and diseases invalid exercise of city's power. *City of St. Louis v. King*, 126 S.W. 495, 226 Mo. 334 (1910).

This subsection does not enlarge city's powers further than is necessary to carry out the specific grants of power. *City of St. Louis v. King*, 126 S.W. 495, 226 Mo. 334 (1910).

City may license plumbers since plumbing related to public health. *Ex parte Smith*, 132 S.W. 607, 231 Mo. 111 (1910).

Regulation of signs and billboards was valid since possible to find that they were injurious to health. *St. Louis Gunning Advertisement Co. v. City of St. Louis*, 137 S.W. 929, 235 Mo. 99 (1911).

City may require railroad to abolish grade crossings and reunite streets in the interests of public health and safety. *American Tobacco Co. v. Missouri Pac. Ry. Co.*, 157 S.W. 502, 247 Mo. 374 (1912).

Ordinance punishing disturbance of the peace through violent, offensive obscene etc. conduct and noises on private or public property valid. *City of St. Louis v. Stupsky*, 162 S.W. 155, 254 Mo. 309 (1913).

Business of junk dealers poses risk of disease and theft warranting regulation. *City of St. Louis v. Baskowitz*, 201 S.W. 870, 273 Mo. 543 (1918).

Ordinance prohibiting street vendors in front of businesses selling same goods invalid because not of general application. *Ex parte Lerner*, 218 S.W. 331, 281 Mo. 18 (1920).

Ordinance providing that businesses be closed on Sunday valid exercise of police power. *Komen v. City of St. Louis*, 289 S.W. 838, 316 Mo. 9 (1926).

Ordinance requiring advertisement for sale of goods to contain fact seller is dealer was designed to catch unlicensed merchants consistent with the purposes of this subsection. *City of St. Louis v. Southcombe*, 8 S.W. 2d 1001, 320 Mo. 865 (1928).

Power to build an airport inferred from this subsection. *Dysart v. City of St. Louis*, 11 S.W. 2d 1045, 321 Mo. 514 (1928).

City may require compliance with building codes to protect its citizens. *Kalbfell v. City of St. Louis*, 211 S.W. 2d 911, 357 Mo. 986 (1948).

Conditions of the moving industry warranted regulation by the city for the public welfare. *Mike Berniger Moving Co. v. O'Brien*, 240 S.W. 431 (1922).

City can require replacement of privies by water closets in private property. *City of St. Louis v. Nash*, 260 S.W. 985 (1924).

School lunchrooms, although operated by the state, must meet city health standards since there is no statute exempting school lunchrooms from local control. *Bredeck v. Board of Education of St. Louis*, 213 S.W. 2d 889 (1948).

The city has the power to license and regulate real estate brokers. *City of St. Louis v. Green*, 353 S.W. 2d 606 (1962).

The city charter does not expressly or by necessary inference empower the city to regulate construction of state buildings on state land in the city. *Paulus v. City of St. Louis*, 446 S.W. 2d 144 (1969).

McQuillin:

#### Ch. 24 Municipal Police Power and Ordinances

(34) Fines, forfeitures and penalties. To enforce any ordinance, rule or regulation by means of fines, forfeitures, penalties and imprisonment or by action or proceeding in its own courts or in any other court of competent jurisdiction or by any one or more of such means, and to impose costs as a part thereof.

V.A.M.S.:

71.220 City prisoners--labor on public streets, etc.

City Counselor Ops.: 8050, 9919

Cases:

City may impose penalty of imprisonment for violation of traffic ordinance. *City of St. Louis v. Von Hoffman*, 280 S.W. 421, 312 Mo. 600 (1926).

City may impose a penalty for violating ordinance requiring filing of tax return. *Barhorst v. City of St. Louis*, 423 S.W. 2d 843 (1967).

Due process does not require advance notice that the trial on the substantive offense will be followed by an habitual criminal accusation. *Oyler v. Boles*, 368 U.S. 448, 82 S.Ct. 501, 23 L.Ed. 2d 711 (1962).

Selectivity in enforcement of an habitual criminal statute is not in itself a violation of the Equal Protection Clause of the Fourteenth Amendment. *Oyler v. Boles*, 368 U.S. 448, 82 S.Ct. 501, 23 L.Ed. 2d 711 (1962).

The Fifth Amendment guarantee against double jeopardy embodies collateral estoppel as a constitutional requirement. *Ashe v. Swenson*, 397 U.S. 436, 90 S.Ct. 1189, 25 L.Ed. 2d 469 (1970).

The Fifth Amendment guarantee against double jeopardy is violated when punishment already exacted for an offense is not fully "credited" in imposing a new sentence for the same offense. *North Carolina v. Pearce*, 395 U.S. 711, 89 S.Ct. 2072, 23 L.Ed. 656 (1969).

There is no absolute bar to imposing a more severe sentence on reconviction, but the reasons for a more severe sentence must affirmatively appear in the record and must be based upon objective information concerning identifiable conduct on the part of the defendant occurring after the time of the original sentencing proceeding. *North Carolina v. Pearce*, 395 U.S. 711, 89 S.Ct. 2072, 23 L.Ed. 656 (1969).

A second trial in a state court for the identical offense for which a person was tried in a municipal court constitutes double jeopardy. *Waller v. State of Florida*, 397 U.S. 387, 90 S.Ct. 1184, 25 L.Ed. 2d 435 (1970).

It is a denial of equal protection to limit punishment to payment of a fine for those who are able to pay it but to convert the fine to imprisonment for those who are unable to pay it. *Tate v. Short*, 401 U.S. 395, 91 S.Ct. 668, 28 L.Ed. 2d 130 (1971).

The death penalty in three particular cases held to constitute cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments. *Furman v. Georgia*, 408 U.S. 238, 92 S.Ct. 2726, 33 L.Ed. 2d 346 (1972).

No accused may be deprived of his liberty as the result of any criminal prosecution, whether felony or misdemeanor, in which he was denied the assistance of counsel. *Argersinger v. Hamlin*, 407 U.S. 25, 92 S.Ct. 2006, 32 L.Ed. 2d 530 (1972).

Reliance by Texas on local property taxation for school financing did not violate equal protection clause of the Fourteenth Amendment. *San Antonio Independent School District v. Rodriguez*, 411 U.S. 1, 93 S.Ct. 1278, 36 L.Ed. 2d 16 (1973).

Trying a defendant de novo in circuit court after his acquittal in municipal court constituted double jeopardy in violation of the Fifth Amendment of the U.S. Constitution. *Kansas City v. Bott*, 509 S.W. 2d 42 (1974).

The cruel and unusual punishments clause of the Eighth Amendment does not apply to disciplinary corporal punishment in public schools. *Ingraham v. Wright*, 430 U.S. 651, 97 S.Ct. 1401, 51 L.Ed. 2d 711 (1977).

McQuillin:

Ch. 17 Penalties of Municipal Ordinances

(35) Incidental powers. To exercise all powers granted or not prohibited to it by law or which it would be competent for this charter to enumerate.

Constitution:

Article 6 § 31 Recognition of City of St. Louis as now existing

Article 6 § 32(a) Amendment of Charter of St. Louis

Article 6 § 32(b) Revision of Charter of St. Louis

City Counselor Ops.: 8050, 8080, 8158, 8184, 8185, 9811, 9850, 9909

Cases:

The power to regulate vocations is necessary for the city to carry out its governmental functions. *Komen v. City of St. Louis*, 289 S.W. 838, 316 Mo. 9 (1926).

Power to build an airport inferred from this subsection. *Dysart v. City of St. Louis*, 11 S.W. 2d 1045, 321 Mo. 54 (1928).

City may regulate parking on streets by installing parking meters. *Automobile Club of Missouri v. City of St. Louis*, 334 S.W. 2d 355 (1960).

The city may use park land, obtained by condemnation, for street purposes. *Kirkwood v. City of St. Louis*, 351 S.W. 781 (1961).

The city charter does not expressly or by necessary inference empower the city to regulate construction of state buildings on state land in the city. *Paulus v. City of St. Louis*, 446 S.W. 2d 144 (1969).

The city in erecting barricades to facilitate orderly vehicle traffic did not exceed its power. *State ex rel. Schmitz v. City of St. Louis*, 551 S.W. 2d 848 (1977).

McQuillin:

10.09--10.12 Scope of Powers

10.13--10.16 Powers of Home-Rule Municipalities

History:

Submission Ordinance No. 66328

Submission Ordinance Approved July 23, 2004.

Amendment Substance: reduces number of aldermen and president chosen by aldermen.

Voter Rejection Date: November 2, 2004.

Section 2 Enumeration not exclusive; scope of grant of power.

The enumeration of particular powers in this charter is not exclusive of others, nor restrictive of general words or phrases granting powers, nor shall a grant or failure to grant power in this article impair a power granted in any other part of this charter; and whether powers, objects or purposes are expressed conjunctively or disjunctively they shall be construed so as to permit the city to exercise freely any one or more such powers as to any one or more such objects for any one or more such purposes.

City Counselor Ops.: 10015, 10408

Cases:

The city powers should be construed broadly to include the power to build a public auditorium with public funds. *Halbrueggar v. City of St. Louis*, 262 S.W. 379, 302 Mo. 573 (1924).

An enumeration of taxable occupations does not impair the city's general power to impose taxes to classify those occupations. *Automobile Gasoline Co. v. City of St. Louis*, 32 S.W. 2d 281, 326 Mo. 435 (1930).

The city may have the right to make subclassifications that contain only one member. *Ex parte Holman*, 191 S.W. 1109, 197 Mo. App. 70 (1917).

The city has broad police powers including the power to license and regulate vehicles. *Ex parte Tarling*, 241 S.W. 929 (1922).

McQuillin:

10.09--10.12 Scope of Powers

10.13--10.16 Powers of Home-Rule Municipalities

History:

Submission Ordinance 66328

Submission Ordinance Approved July 23, 2004.

Amendment Substance: reduces number of aldermen and president chosen by aldermen.

Voter Rejection Date: November 2, 2004.

Section 3 Wards.

The city is hereby divided into 28 wards, bounded and numbered as the wards of the city now are; provided, that following the 1970 decennial census of the United States of America and each decennial



census thereafter, corrected ward boundaries shall be established by ordinance which shall comprise as nearly as practicable, compact and contiguous territory within straight lines, and contain as nearly as may be the same number of inhabitants; such ordinance shall be adopted before the end of the calendar year next succeeding the year the census is taken.

Editor's Note:

Descriptions of ward boundaries can be found in Ch. 2.12 of this Code.

V.A.M.S.:

82.100 et seq. Wards

City Counselor Ops.: 9165

Cases:

The prior charter section (repealed by Ordinance 55794 in 1971) providing that aldermanic wards be apportioned according to the number of registered voters was unconstitutional. Representation must be based on population. *Preisler v. Mayor of City of St. Louis*, 303 F.Supp. 1071 (1969).

McQuillin:

7.49 Municipal Subdivisions and Wards

History:

Submission Ordinance No. 55659

Submission Ordinance Approved June 25, 1970.

Amendment Substance: repeals Section 3, enacts new Section 3 relating to fixing Ward Boundaries as ordered by United States District Court so as to establish 28 Wards by ordinance having as near as practicable compact and contiguous territory within straight lines, and contain as nearly as may be the "same number of people

according to the latest decennial census of the United States of America."

Voter Rejection Date: November 3, 1970.

Submission Ordinance No. 55794

Submission Ordinance Approved January 29, 1971.

Amendment Substance: repeals Section 3, and enacts a new Section 3 relating to Ward Boundaries, requiring after the 1970 Decennial Census and each such census thereafter Ward boundaries to be established by ordinance with compact contiguous territories within straight lines containing as near as may be the same number of inhabitants, and requiring such ordinances to be adopted within a year after such census.

Voter Adoption Date: April 6, 1971.

Submission Ordinance 66328

Submission Ordinance Approved July 23, 2004.

Amendment Substance: reduces number of aldermen and president chosen by aldermen.

Voter Rejection Date: November 2, 2004.

Section 4 Earnings tax.

The City of St. Louis shall have power to assess, levy and collect by ordinance for general revenue purposes an earnings tax not in excess of one per centum on salaries, wages, commissions and other compensation earned by its residents; on salaries, wages, commissions and other compensation earned by non-residents of the city for work done or services performed or rendered in the city; on the net profits of associations, businesses or other activities conducted by residents, on the net profits of associations, business or other activities conducted in the city by non-residents; and on the net profits earned by all corporations as the results of work done or services performed or rendered and businesses or other activities conducted in the city. It shall have power to allow exemptions and

deductions from the gross earnings of employees, to impose upon employers the duty of collecting and remitting to it any tax that may be levied upon the earnings of employees and to prescribe penalties for failure to perform such duty.

V.A.M.S.:

92.110 et seq. Earnings tax (St. Louis)

Ops. Atty. Gen.:

School districts in St. Louis County must deduct the St. Louis earnings tax from the wages and salaries of their employees who are residents of the city and remit the amount withheld to the St. Louis city collector. No. 148, August 22, 1972.

City Counselor Ops.: 8201, 8369, 8846, 9211

Cases:

Ordinance 43783 of the City of St. Louis, which imposed an earnings tax on residents and nonresidents, held void. *Carter Carburetor Corp. v. City of St. Louis*, 203 S.W. 2d 438 (1947).

An "earnings" tax is a general revenue measure and not a license tax under the city's police power. *Carter Carburetor Corp. v. City of St. Louis*, 203 S.W. 2d 438 (1947).

The city has the power to enact an earnings tax and to make reasonable classifications for tax purposes. *Barhorst v. City of St. Louis*, 423 S.W. 2d 843 (1967).

An earnings tax may be imposed on earned income (salaries, commissions, etc.) and exclude unearned income (rents, dividends, etc.) *Barhorst v. City of St. Louis*, 423 S.W. 2d 843 (1967).

The city may tax the entire earned income of resident individuals while taxing only the income earned in the city by corporations. *Barhorst v. City of St. Louis*, 423 S.W. 2d 843 (1967).

McQuillin:

## 44.193 Income Taxes

History:

Submission Ordinance No. 47117

Submission Ordinance Approved June 28, 1954.

Amendment Substance: enacting a new Section 4, authorizing the City to levy and collect an earnings tax not in excess of 1/2%

Voter Adoption Date: September 30, 1954.

Submission Ordinance No. 49502

Submission Ordinance Approved May 8, 1959.

Amendment Substance: amending Section 4 amendment to increase earnings tax authority to 1% from 1/2%.

Voter Adoption Date: July 14, 1959.

## *St. Louis City Charter Article II*

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## Article II Elections\*

V.A.M.S.:

Ch. 122 Municipal elections

122.650--122.970 St. Louis City--Nominations 122.800 Primaries

City Counselor Ops.: 9882

\* Constitution:

Article 8 Suffrage and elections

Section 1 When general elections held.

A general municipal election shall be held on the first Tuesday after the first Monday in April, 2005, and every two years thereafter.

City Counselor Ops.: 10153

Cases:

Since a revenue collector of the city of St. Louis is a state officer his election is regulated by state law. State v. Koeln, 192 S.W. 748, 270 Mo. 174 (1917).

History:

Submission Ordinance No. 66192

Submission Ordinance Approved February 20, 2004.

Amendment Substance: changing the date of municipal elections.

Voter Adoption Date: August 3, 2004.

Section 2 Mayor and comptroller.

At the general city election in 1917, and every four years thereafter, a mayor and comptroller shall be elected each for a term of four years and until his successor qualifies.

Section 3 Alderman.

At the general city election in 1915 one alderman from each odd-numbered ward shall be elected for a term of two years, and at the same election, and every four years thereafter, one alderman from each even-numbered ward, and a president of the board of aldermen, shall be elected, each for a term of four years. At the general city

election in 1917, and every four years thereafter, one alderman from each odd-numbered ward shall be elected, each for a term of four years.

City Counselor Ops.: 9863

Cases:

Aldermen's salaries were governed by the new 1914 Charter which superseded the old charter. *State v. Player*, 218 S.W. 859, 280 Mo. 496 (1920).

Section 4 General ticket required for elective officers.

Every elective city officer, including the president and members of the board of aldermen, shall be elected by a general ticket; provided, that whenever the constitution and laws of the state permit, each alderman shall be elected only by the voters of the ward from which he is elected.

Cases:

If the charter is properly amended the state constitution and statutes are broad enough to permit aldermen to be elected only by members of their wards. *State v. Waechter*, 80 S.W. 672, 336 Mo. 509 (1935).

Section 5 Elections on initiative, referendum or recall. When held.

The board of election commissioners shall designate the day for holding any special election under the initiative, referendum or recall provisions of this charter.

Section 6 Same--Notice to be given.

The board of election commissioners shall cause a notice to be published at least three times in at least two daily newspapers in the city, the first insertion to be at least twenty days prior to the holding of any election under the initiative, referendum or recall provisions of this charter, such notice to state the time and place of holding such election and the general nature of each proposition or ordinance to be voted upon.

## Section 7 Conduct of elections.

Except as in this charter otherwise provided, all elections shall be held and proceedings had in relation thereto as may be provided by law or ordinance.

V.A.M.S.:

C. 118 Registration of voters and conduct of elections in cities of over 600,000 inhabitants

82.180 Providing for nominations and the form of ballots

City Counselor Ops.: 8914, 9707

Cases:

State laws govern the election of municipal officers at general state elections. State v. Barrett, 181 S.W. 2d 493, 352 Mo. 1130 (1944).

## Section 8 Expense of elections on initiative, referendum or recall.

All necessary expenses incurred in preparing for and conducting any election under the initiative, referendum or recall provisions of this charter shall be paid as follows: The board of election commissioners shall prepare its estimate of such expenses and submit same to the board of aldermen. The mayor and board of aldermen must then appropriate the amount so estimated. The board of election commissioners shall audit and approve all such expenses so incurred and certify them to the comptroller, who must draw his warrant therefor on the treasurer, who must pay the same. If no appropriation has been made for such payment, the treasurer shall charge the same to any fund not otherwise appropriated or to any fund available therefor, anything in this charter to the contrary notwithstanding.

History:

Submission Ordinance No. 66330

Submission Ordinance Approved July 23, 2004.

Amendment Substance: restructures city finance offices and functions.

Voter Rejection Date: November 2, 2004.

Section 9 Municipal elections.

Whenever it may be done in harmony with the state constitution and laws, the board of aldermen shall by ordinance provide for and regulate municipal elections and registration of voters and may provide by ordinance for nonpartisan nominations, preferential voting or proportional representation.

Cases:

State laws govern the election of municipal officers at general state elections. *State v. Barrett*, 181 S.W. 2d 493, 352 Mo. 1130 (1944).

McQuillin:

12.02--12.26 Municipal Elections

### *St. Louis City Charter Article III*

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## Article III Recall of Elective Officers

Section 1 By whom exercised.



Any elective officer may be recalled by the voters of the city, or if he shall have been elected by the voters of a ward or district, then by the voters of such ward or district, as hereinafter provided.

McQuillin:

12.251--12.251g Removal by Recall

History:

Submission Ordinance No. 61197

Submission Ordinance Approved January 31, 1989.

Amendment Substance: adding provision that ordinances consistent with this article and other applicable laws may be adopted regulating the form of recall petitions and the collection and validity of signatures thereon.

Voter Rejection Date: March 7, 1989.

Submission Ordinance No. 61502

Submission Ordinance Approved July 31, 1989.

Amendment Substance: adding provision that ordinances consistent with this article and other applicable laws may be adopted regulating the form of recall petitions and the collection and validity of signatures thereon.

Voter Rejection Date: November 8, 1989.

Section 2 Petition--Percentage of voters required.

A petition for such recall shall be signed by registered voters equal in number to twenty percent of all the registered voters of the city at the time of the last preceding regular mayoralty election; provided, that in such number shall be included twenty percent of the registered voters at said time in each of at least two-thirds of the wards of the city; provided further, that if the officer shall have been elected by the voters of a ward or district, the petition need be signed by only twenty

percent of all the registered voters therein at the time of said mayoralty election.

History:

Submission Ordinance No. 61197

Submission Ordinance Approved January 31, 1989.

Amendment Substance: amending percentage of registered voters required from twenty to thirty percent

Voter Rejection Date: March 7, 1989.

Submission Ordinance No. 61502

Submission Ordinance Approved July 31, 1989.

Amendment Substance: confirming percentage of registered voters inquired as twenty percent.

Voter Rejection Date: November 8, 1989.

Section 3 Same--How signatures affixed.

The signatures need not all be appended to one paper, but all papers comprising the petition shall be uniform in character and shall each be verified by affidavit stating that each signature thereto was made in affiant's presence by, as affiant verily believes, the person whose name it purports to be. Each signer shall state, opposite his signature, his residence address. Any person shall be deemed a registered voter whose name is unerasable on the registration books.

City Counselor Ops.: 10027

Section 4 Same--Contents.

Each of the papers comprising the petition shall state the name and office of the officer whose recall is sought and ask for his recall before any signature is appended thereto.

City Counselor Ops.: 10421

## Section 5 Same--Filing and certification.

All papers comprising the petition shall be assembled by the petitioners and filed with the board of election commissioners as one instrument, and within ten days thereafter said board shall find and certify as to the sufficiency of the petition, stating the number of registered voters signing. If the petition is certified to be insufficiently signed, supplemental papers conforming to the requirements for the originals may be filed within twenty days thereafter, and said board, within ten days after such supplements are filed, shall find and certify as to the sufficiency of the petition, so supplemented. If found still insufficiently signed, no further supplement shall be allowed, but a new petition may be filed.

City Counselor Ops.: 10027

## Section 6 Notification to officer.

If such recall petition, with supplements, if any, be found sufficient, a certificate to that effect shall be mailed by said board to the officer, and if he does not resign within ten days after such mailing, said board shall provide for submitting the question of his recall at the first election at which it may lawfully be submitted, not less than thirty nor more than ninety days after such mailing, and if there is no such election, then at a special election to be held within such ninety days if legally possible, otherwise at the earliest day at which said question may be submitted at either a general or special election. Any such election, at any stage thereof, shall at once be discontinued upon the death, resignation or removal of the officer whose recall is in question.

City Counselor Ops.: 10421

## Section 7 Form of ballot.

The ballot shall state the proposition, "Shall (name of officer) be removed from the office of (name of office)?" and to the right thereof, in bold type, the words "yes" and "no," one above the other. To vote for the recall of said officer the voter shall strike out the word "no," and to vote against such recall, the word "yes." If the majority of the votes cast thereon at said election shall be in favor of such recall, the office shall be vacant five days thereafter.

Section 8 Propositions to be separately submitted.

No petition shall seek the recall of more than one officer, but several propositions for recall may be separately submitted at the same election on the same ballot.

Section 9 Limitations on use.

No recall petition shall be filed against any officer within the first six months or the last six months of his term nor within six months after a proposition for his recall has been defeated at an election.

History:

Submission Ordinance No. 61197

Submission Ordinance Approved January 31, 1989.

Amendment Substance: adding provisions on form of recall petition and requiring that no recall petition shall be filed against any officer later than one hundred twenty days after the earliest dated signature thereon.

Voter Rejection Date: March 7, 1989.

Submission Ordinance No. 61502

Submission Ordinance Approved July 31, 1989.

Amendment Substance: adding provisions on form of recall petition and requiring that no recall petition shall be filed against any officer later than one hundred twenty days after the earliest dated signature thereon.

Voter Rejection Date: November 8, 1989.

Submission Ordinance No. 66974

Amendment Substance: limit time for submitting recall petition

Voter Rejection Date: April 4, 2006

## *St. Louis City Charter Article IV*

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### Article IV

#### Board of Aldermen\*

\* City Counselor Ops.: 9724, 10290, 10291

##### Section 1 Composition.

The legislative power of the City of St. Louis shall, subject to the limitations of this charter, be vested in a board of aldermen consisting of a president, elected as such by general ticket from the city at large, and twenty-eight members, one from each ward, to be elected only by the qualified voters of the ward he is a candidate to represent, and to be known as alderman from the ward from which elected. Provided, that aldermen heretofore elected shall remain in office until the end of the terms for which they were, respectively, elected, and provided further that in case of a vacancy, the alderman elected to fill such a vacancy shall be chosen by the qualified voters of the ward from which he is elected.

City Counselor Ops.: 9843, 9857

##### Cases:

The people retain the right to legislate through the initiative procedure. *Pitman v. Drabelle*, 183 S.W. 1055, 267 Mo. 78 (1916); *State v. Miller*, 285 S.W. 504, 315 Mo. 41 (1926).

The state constitution and statutes are broad enough to permit aldermen to be elected only by members of their wards. *State v. Waechter*, 80 S.W. 2d 672, 336 Mo. 509 (1935).

The establishment of a commission to administer an ordinance prohibiting solicitation of charitable funds was not an invalid delegation of legislative power. *Ex parte Williams*, 139 S.W. 2d 485, 345 Mo. 1121 (1940).

The board of aldermen do not have the authority to pass an irrevocable ordinance setting bridge tolls. *City of St. Louis v. Cavanaugh*, 207 S.W. 2d 449, 357 Mo. 204 (1948).

McQuillin:

Ch. 13 Meetings and Proceedings of Council or Governing Legislative Body

History:

Submission Ordinance No. 42060

Submission Ordinance Approved April 14, 1941.

Amendment Substance: repealing Section 1, and enacting a new Section 1, relating to the vesting of legislative power in a Board of Aldermen, electing its members and filling vacancies.

Voter Adoption Date: September 16, 1941.

Section 2 Qualifications and salary.

No person shall become an alderman except he be a voter and at least twenty-five years of age, and shall have been next before his election five years a citizen of the United States, three years a resident of the city, two years an assessed taxpayer of the city, and one year a resident of the ward from which elected, nor who shall have been convicted of malfeasance in office, bribery, or other corrupt practice or crime; and if any alderman shall be so convicted or shall at any time not be a resident of such ward, he shall thereby forfeit his office. The salary of each alderman shall be three thousand dollars per annum.

City Counselor Ops.: 9471, 9843

Cases:

Aldermen's salaries were governed by the new 1914 Charter which superseded the old charter. *State v. Player*, 218 S.W. 859, 280 Mo. 496 (1920).

For the purposes of this section an alderman's residence is where his home (domicile) is located. *State v. Mueller*, 388 S.W. 2d 53 (1965). The residence requirement is mandatory. *State v. Mueller*, 388 S.W. 2d 53 (1965).

A requirement that a candidate for alderman be a resident of the city for three years prior to the election is a valid residency requirement. *State ex. rel. Campbell v. Svetanics*, 548 S.W. 2d 293 (1977).

A one-year residency requirement for city aldermen was reasonable and valid. *Brandenberg v. McClellan*, 427 F.Supp. 943 (1977).

History:

Submission Ordinance No. 35188

Submission Ordinance Approved July 6, 1926.

Amendment Substance: amending Section 2 relating to qualifications and salary of members of the Board of Aldermen, by striking the salary established as \$1,800 per year and substituting the higher salary of \$3,000.

Voter Rejection Date: November 2, 1926.

Submission Ordinance No. 44822

Submission Ordinance Approved February 1, 1949.

Amendment Substance: repealing Section 2, and enacting a new Section 2, relating to same subject providing for the qualifications of Aldermen, changing the salary from \$1,800 per year to \$3,000 per year.

Voter Adoption Date: April 5, 1949.

Submission Ordinance No. 57094

Submission Ordinance Approved December 5, 1975.

Amendment Substance: changing (amending) Section 2 requirement that members of the Board of Aldermen must be at least 25 years of age to a requirement that members of the Board of Aldermen must be at least 22 years of age.

Voter Rejection Date: August 3, 1976.

Section 3 President.

The president of the board of aldermen shall preside at all meetings and have the qualifications and forfeit his office for the causes provided with regard to the mayor. His salary shall be five thousand dollars per annum.

City Counselor Ops.: 9843, 10421

Cases:

The salary of the office of president belongs to the person who holds that office. State v. Nolte, 180 S.W. 2d 740, 352 Mo. 1069 (1944).

History:

Submission Ordinance No. 35188

Submission Ordinance Approved July 6, 1926.

Amendment Substance: amend Section 3, relating to the duties and salary of the President of the Board of Aldermen, by striking the salary of the President established as \$3,000 per year, and substituting therefor a salary of \$5,000 per year.

Voter Rejection Date: November 2, 1926.

Submission Ordinance No. 010822



Submission Ordinance Approved February 1, 1949.

Amendment Substance: repeals Section 3, and enacts a new Section 3 relating to the same subject matter of the duties of the president of the Board of Aldermen but changes the salary from \$3,000 to \$5,000 per year.

Voter Adoption Date: April 5, 1949.

Section 4 Absence from meetings.

Whenever a member of said board other than the president is absent from a meeting he shall forfeit ten dollars (\$10.00) of his salary unless his absence is excused on motion, stating the cause thereof, and adopted by a majority of the members present, provided, that forfeitures by one member shall not exceed eight hundred dollars (\$800.00) in any one year. No forfeiture imposed because of absence shall be remitted.

City Counselor Ops.: 8113, 8220, 9843, 10180, 10181

History:

Submission Ordinance No. 43505

Submission Ordinance Approved March 11, 1946.

Amendment Substance: amending Section 4, to permit excused absences without forfeiture of \$10 salary, upon motion adopted by majority of members present.

Voter Adoption Date: August 6, 1946.

Section 5 Vacancies.

(a) When a vacancy occurs in the office of ward alderman, one hundred and eighty (180) days or more prior to a city general election, such vacancy shall be filled through special election by the qualifying voters of the ward represented by the vacating alderman. The individual elected shall serve for the remainder of the unexpired term or until the next general city election, whichever shall occur first, at which time such office shall again be filled according to law. Where

such special ward election is required for an abbreviated term it shall be held no sooner than seventy-five (75) days nor later than ninety (90) days after the occurrence of the vacancy and there shall be no primary election preliminary thereto. In such case the board of election commissioners shall accept and process the names of candidates representing the established political parties, as such parties are defined in Section 120.140-2. Missouri Revised Statutes, 1969, or as amended, which are certified by the respective city central committees of the aforesaid parties, as their chosen respective candidates to stand for election to fill the vacancy. Persons desiring such party certification shall conform to all the requirements of the revised code of the City of St. Louis required for primary nominations, except that the time limitation contained in the aforesaid revised code of the City of St. Louis shall not be observed. The certification herein provided shall be delivered to the board of election commissioners by the aforesaid several city central committees and by said board shall be receipted, not less than thirty (30) days before the date of the special election. Persons desiring to stand for election as non-partisan candidates shall file nomination petitions signed in the aggregate for each candidate by ten percent (10%) of the qualified voters in the respective ward who voted at the next preceding mayoral general election. The primary and general elections to fill aldermanic vacancies otherwise than herein provided, shall be subject to all other existing city and state laws pertaining to the provisions for and conduct of elections in the City of St. Louis.

(b) All provisions of the city charter and ordinances and rules thereunder, or parts thereof, inconsistent with this amendment are hereby repealed.

City Counselor Ops.: 9462, 9720, 9843, 9863

Cases:

When the president of the board of aldermen becomes mayor, the office of president is temporarily vacant and the provisions of this section for filling a vacancy do not apply. *State v. Barrett*, 180 S.W. 2d 730, 352 Mo. 1076 (1944).

History:

Submission Ordinance No. 52897

Submission Ordinance Approved December 10, 1964.

Amendment Substance: repealing Section 5 and enacting a new Section 5, relating to filling vacancies of unexpired terms of members of the Board of Aldermen requiring filling by election at next City general election to be held not less than 60 days after occurrence of the vacancy, empowering Board of Aldermen, by majority vote, to appoint a person of same political party to serve until a person to fill vacancy is elected; and upon the Board's failure to call election, the Mayor by proclamation to call special election within specified time limits.

Voter Adoption Date: April 6, 1965.

Submission Ordinance No. 56672

Submission Ordinance Approved February 22, 1974.

Amendment Substance: repeal of Section 5, as amended, and enact new Section 5, changing the time requiring election to fill vacancies in the Board of Aldermen from 60 days to 180 days before a next City general election, establishing nomination requirements of candidates to fill vacancies; omitting the Mayor's function for calling special election upon failure of the Board of Aldermen; and specifying the application of Missouri election statutes as applicable.

Voter Adoption Date: August 6, 1974.

Section 6 Vice-president, clerk and other officers and employees.

Said board shall choose from its membership a vice-president to act in case of the absence, disability or failure to act of the president, shall choose a clerk, and may select any other officers and employees.

City Counselor Ops.: 9843, 10224

Cases:

When the vice-president fills the office of president which was left vacant, the vice-president becomes president. *State v. Nolte*, 180 S.W. 2d 740, 352 Mo. 1069 (1944).

Section 7 Board to be judge of qualifications of members; quorum.

Said board shall be the judge of the qualifications of its members, except of its president, and a majority of all its members shall constitute a quorum, but a smaller number may adjourn from day to day and may compel the attendance of absentees in such manner and under such penalties as the board may provide.

City Counselor Ops.: 9843, 9857

Cases:

The circuit court is not precluded from determining the qualifications of a member of the board of aldermen by writ of quo warranto. *State v. Harris*, 363 S.W. 2d 580 (1962).

McQuillin:

13.27--13.36 Quorum and Number of Votes Required to Act

Section 8 Rules of procedure; punitive powers; attendance of witnesses; journal; publication of proceedings.

Said board may determine the rules of its proceedings, subject to this charter; arrest and punish by fine or imprisonment, or both, any member or other person guilty of disorderly or contemptuous behavior in its presence; and with the concurrence of two-thirds of all its members, expel a member for cause, after notice and upon a hearing. It shall have power, and may delegate it to any committee, to subpoena witnesses and order the production of books and papers relating to any subject within its jurisdiction; to call upon its own officer or the city marshal to execute its process; and to arrest and punish by fine or imprisonment, or both, any person refusing to obey such subpoena or order. No fine for any one offense under this section shall exceed three hundred dollars nor shall any imprisonment for any one offense exceed ten days; but each day's continuance [of] any refusal as aforesaid shall be a separate offense. Its presiding officer or

the chairman of any committee may administer oaths to witnesses. It shall keep a journal of its proceedings, and the yeas and nays on any question shall at the desire of any member present be entered thereon. The proceedings of each meeting of said board shall be published within five days in the paper or papers doing the city publishing.

City Counselor Ops.: 8768, 9230, 9843, 10122

Cases:

The board of aldermen or a committee thereof has the power to subpoena the president of a public service corporation. Ex parte Holman, 191 S.W. 1109, 197 Mo. App. 70 (1917).

Editor's Note: The word "[of]" has been inserted for clarification.

McQuillin:

13.37--13.52 Proceedings

Section 9 General and special sessions.

One session of said board shall be held annually, beginning on the third Tuesday of April, and the mayor may by three days' proclamation convene it in special session. All sessions shall be public and in the city hall, subject to change of place in case of emergency.

City Counselor Ops.: 9857

History:

Submission Ordinance No. 35001

Submission Ordinance Approved April 22, 1926.

Amendment Substance: amending Section 9 relating to general and special sessions of the Board of Aldermen to change the general meetings from "one annually beginning on the third Tuesday of April" to "biennially beginning on the third Tuesday of April of the year (1927), and of each alternate year thereafter."

Voter Rejection Date: August 3, 1926.

Section 10 Enacting style of ordinances.

The style of [every] ordinance shall be: "Be it ordained by the city of St. Louis as follows:"

City Counselor Ops.: 8034

Cases:

Requirements as to form of ordinances are directory and not mandatory. *St. Louis Terminals v. City of St. Louis*, 535 S.W. 2d 593 (1976).

Requirement of ordaining clause is directory and not mandatory, and omission will not invalidate ordinance. *St. Louis Terminals v. City of St. Louis*, 535 S.W. 2d 593 (1976).

McQuillin:

Ch. 16 Enactment of Ordinances

Editor's Note: The word "[every]" has been inserted because it was evidently intended.

Section 11 Ordinances to be passed by bill; limitation on amendment.

No ordinance shall be passed except by bill and no bill shall be so amended in its passage as to change its original purpose.

City Counselor Ops.: 8034, 9986, 10130, 10145

Section 12 Revival, amendment and re-enactment of ordinances.

No ordinance shall be revived or re-enacted except by bill setting it forth in full, nor amended except by bill setting forth the ordinance or section amended in full, as amended.

City Counselor Ops.: 8034, 9967, 9986, 10310

Section 13 Bills to contain single subject; exception.

No bill, except a general appropriation bill which shall only embrace matters on account of which moneys are appropriated, shall contain more than one subject, which shall be clearly expressed in its title.

City Counselor Ops.: 8034, 9498, 9733, 9838, 9967, 9986, 10045, 10145

Cases:

The title to an amendatory act that indicates the subject matter of the act amended and the nature and purposes of the amendments is sufficient. *City of St. Louis v. United Rys. Co. of St. Louis*, 174 S.W. 78, 263 Mo. 387 (1914).

An ordinance that provides for the vacation of a small portion of a street and the widening of the street covered one subject. *City of St. Louis v. Senter Commission Co.*, 84 S.W. 2d 133, 336 Mo. 1209 (1935).

Any doubt about the validity of the title is usually resolved in favor of validity. *Ploch v. City of St. Louis*, 138 S.W. 2d 1020, 345 Mo. 1069 (1940).

The requirements as to titles for ordinances have no effect on legislative proposals for charter amendments. *State v. Kirby*, 163 S.W. 2d 990, 349 Mo. 988 (1942).

This section is prospective in character and not retroactive. *Driscoll v. Nelson*, 170 S.W. 377, 185 Mo. App. 300 (1914).

The ordinance is only invalidated as to the part that was not clearly expressed in the title. *City of St. Louis v. Breuer*, 223 S.W. 108 (1920).

The title of an ordinance specifying code provisions that were being revised and that the same subject matter was being covered was valid. *City of St. Louis v. Bouckaert*, 185 S.W. 2d 886 (1945).

The defense of invalidity of an ordinance under this section is deemed waived unless it is raised at the first opportunity. *City of St. Louis v. Langeneckert*, 210 S.W. 2d 736 (1948).

Neither stating nor failing to state the location of public improvements in the title violates this section. *Kirkwood v. City of St. Louis*, 351 S.W. 2d 781 (1961).

When the title does not descend into particulars the failure to state details included in the ordinance is not fatal. *508 Chestnut, Inc. v. City of St. Louis*, 389 S.W. 2d 823 (1965).

The purpose of this section is to provide for an honest title and prevent deception. *508 Chestnut, Inc. v. City of St. Louis*, 389 S.W. 2d 823 (1965).

Seemingly separate subjects may be separate facets of a prime subject. *Ruggeri v. City of St. Louis*, 441 S.W. 2d 361 (1969).

A special employer tax was held invalid as it was imposed by a bill which violated this section. *ACI Plastics, Inc. v. City of St. Louis*, 724 S.W. 2d 513 (1987).

Section 14 How committees discharged.

The board of aldermen at any meeting held thirty days or more after any bill shall have been referred to a committee, shall, on motion of any member, determine by the yeas and nays entered on the journal, whether such committee shall be discharged from further consideration thereof.

City Counselor Ops.: 8034

Section 15 Amendments to be engrossed.

All amendments adopted shall be incorporated with the bill by engrossment under the supervision of a committee which shall report in writing such engrossment not later than the first meeting of said board held more than three days after the order to engross.

City Counselor Ops.: 8034

Section 16 Adoption of ordinances.

Every bill shall be read on three different days in open session before its adoption, and no bill shall become an ordinance unless a majority



of all the members vote in favor of its adoption and the presiding officer signs the same in open session.

City Counselor Ops.: 8034, 9732

Cases:

The term "all the members" as used in the Charter refers to the full authorized membership of the Board of Aldermen, not the actual membership of the Board at the time a vote is taken. *Braddy v. Zych*, 702 S.W. 2d 491 (Mo. App. 1985).

An abstention is not a favorable vote. *Braddy v. Zych*, 702 S.W. 2d 491 (Mo. App. 1985).

Section 17 Approval or disapproval of ordinances by mayor; reconsideration by board.

Each bill shall be presented to the mayor immediately after its adoption, but shall not be acted upon by him (except it be an emergency measure) within ten days after its adoption. He shall within twenty days after its presentation to him return it with his approval or disapproval endorsed thereon to the board of aldermen, or, if said board shall have finally adjourned, to the register. Failure so to return any bill within said time shall constitute approval thereof by the mayor. If the mayor approves the bill, or fails to return it as and when above provided, it shall become an ordinance, subject to the referendum provisions of this charter. If he returns it to the register, with his disapproval endorsed thereon, after said board shall have finally adjourned, but within said twenty days, it shall not become an ordinance. If he returns it to said board, with his disapproval endorsed thereon, within said twenty days and before said board shall have finally adjourned, said board shall reconsider it. If, on such reconsideration, two-thirds of all the members vote to pass the bill, the presiding officer shall certify that fact thereon over his signature and thereupon the bill shall become an ordinance, subject to the referendum provisions of this charter; otherwise it shall not become an ordinance. If a bill contains several items of appropriation, the mayor may disapprove one or more items while approving the others, and the items approved shall become an ordinance in like manner as

a bill approved, and the items disapproved shall be proceeded with in like manner as a bill disapproved.

V.A.M.S.:

82.200 Attestation of ordinances--evidence, when

City Counselor Ops.: 7672, 8034, 9000, 9761

Cases:

A returned bill becomes law even though the date of its approval by the mayor is erroneous or absent. *Ex parte Corvey*, 287 S.W. 879, 220 Mo. App. 602 (1926).

The term "all the members" as used in the Charter refers to the full authorized membership of the Board of Aldermen, not the actual membership of the Board at the time a vote is taken. *Braddy v. Zych*, 702 S.W. 2d 491 (Mo. App. 1985).

Section 18 How vote determined; entry in journal.

In all cases under the two next preceding sections the votes shall be determined by yeas and nays and the names of the members voting for and against the bill shall be entered on the journal.

City Counselor Ops.: 8034

Section 19 Effective date of ordinances.

No ordinance, unless it be an emergency measure, shall take effect until thirty days after its approval by the mayor or thirty days after adoption over his veto.

City Counselor Ops.: 8034, 9454

Section 20 Emergency ordinance defined.

An emergency measure is any ordinance necessary for the immediate preservation of the public peace, health or safety, or providing for public work or improvements of any kind or repairs thereof, or establishing a benefit or taxing district or a sewer district, or a joint

sewer district, and declared to be an emergency measure; any ordinance calling or providing for any election or vote by or submission to the people, any ordinance making an appropriation for the payment of principal or interest of the public debt, or for current expenses of the city government; any general appropriation ordinance; or any ordinance fixing any tax rate; but no ordinance granting, enlarging or affecting any franchise or amending or repealing any ordinance adopted by the people under the initiative shall be an emergency measure.

City Counselor Ops.: 8034, 9731, 9732

Cases:

Whether or not a legislative measure is an emergency measure is ultimately a court question. *State v. City of St. Louis*, 5 S.W. 2d 1080, 319 Mo. 497 (1928).

History:

Submission Ordinance No. 35368

Submission Ordinance Approved November 24, 1926.

Amendment Substance: amending Section 20 relating to emergency measure ordinance.

Voter Adoption Date: April 5, 1927.

Section 21 Ordinances to be numbered and published.

Every ordinance shall be immediately sent to the register, and by him numbered, filed and preserved in his office. Every ordinance shall be published within ten days after its approval by the mayor or adoption over his veto in the paper or papers doing the city publishing.

V.A.M.S.:

82.120 Redistricting ordinance to be published

City Counselor Ops.: 8034

Cases:

If only one paper is doing the city publication, publication in more than that one paper is not required. *State v. City of St. Louis*, 5 S.W. 2d 1080, 319 Mo. 497 (1928).

Section 22 Revision of ordinances.

There shall be a revision of the general ordinances every five years.

Section 23 Legislative and administrative powers of board.

The board of aldermen shall have power by ordinance not inconsistent with this chapter to exercise all the powers of the city and provide all means necessary or proper therefor; also to do all things needful within or without the city or state to protect the rights of the city.

City Counselor Ops.: 8271, 8393, 8400A, 9020, 9330, 9811, 9909, 10130, 10227, 10278, 10446

Cases:

The people retain the right to legislate through the initiative procedure. *State v. Miller*, 285 S.W. 504, 315 Mo. 41 (1926).

Section 24 Fines and imprisonment.

No fine shall exceed five hundred dollars. Any one against whom any fine shall have been assessed, failing to pay the same and costs, shall be committed to the workhouse or other place provided therefor, and to such labor as may be provided by ordinance, until such fine and costs shall be fully paid, at the rate of one day's imprisonment for each three dollars of fine; provided, that no such imprisonment shall exceed one hundred days for any one offense, and provided further, that fines may be paid in installments in such manner as may be provided by ordinance, and provisions may be made by ordinance for the detention, with the view to reform and cure, of habitual drunkards or other habitual delinquents, as may be defined by ordinance, for the indeterminate sentence not exceeding one year.

City Counselor Ops.: 8405

## Cases:

It is a denial of equal protection to limit punishment to payment of a fine for those who are able to pay it but to convert the fine to imprisonment for those who are unable to pay it. *Tate v. Short*, 401 U.S. 395, 91 S. Ct. 668, 28 L.Ed. 2d 130 (1971).

St. Louis must provide indigent defendants an opportunity to pay fines in reasonable installments. *Hendrix v. Lark*, 482 S.W. 2d 427 (1972).

A person who is unable to pay fines despite a good faith effort cannot be incarcerated. *Hendrix v. Lark*, 482 S.W. 2d 427 (1972).

An indigent defendant may not be incarcerated for nonpayment of fine. *Spencer v. Basinger*, 562 S.W. 2d 350 (1978).

Hearing should be held to determine defendant's ability to pay before he may be confined for failure to pay fines. *Spencer v. Basinger*, 562 S.W. 2d 350 (1978).

## McQuillin:

### Ch. 17 Penalties of Municipal Ordinances

#### History:

Submission Ordinance No. 55732

Submission Ordinance Approved December 30, 1970.

Amendment Substance: repeal Section 24 relating to fines and imprisonment, and enact a new Section 24, changing the rate at which fines are worked off from \$3 to \$15 per day or if no labor performed a rate of \$5 per day of imprisonment.

Voter Rejection Date: April 6, 1971.

Submission Ordinance No. 63315

Submission Ordinance Approved December 7, 1994.

Amendment Substance: amending Section 24 relating to fines and punishment to increase the maximum fine to one thousand dollars.

Voter Rejection Date: April 4, 1995.

Submission Ordinance No. 63914

Submission Ordinance Approved November 26, 1996.

Amendment Substance: repeal Section 24 relating to fines and enact a new Section 24, changing the amount which the fine shall not exceed from \$500 to \$1,000.

Voter Rejection Date: April 1, 1997.

Submission Ordinance No. 64298

Submission Ordinance Approved March 20, 1998.

Amendment Substance: repeal Section 24 relating to fines and enact a new Section 24, changing the amount which the fine shall not exceed from \$500 to \$1,000.

Voter Rejection Date: August 4, 1998.

Submission Ordinance No. 65579

Amendment Substance: to increase fines to \$1,000.00.

Voter Rejection Date: November 5, 2002.

Submission Ordinance No. 66276

Submission Ordinance Approved July 23, 2004.

Amendment Substance: change maximum fine from \$500.00 to \$1,000.00.

Voter Rejection Date: November 2, 2004.

Editor's Note: Ordinance 66940 will submit to the voters on November 6, 2006 a proposition to increase fines to \$1,000.00.

Section 25 Expenditures to be pursuant to ordinance;  
recommendations required.

Except as otherwise expressly provided in this charter, no money shall be expended except in consequence of appropriations made by ordinance, and no improvement involving any expenditure of money shall be ordered except by ordinance. No ordinance making, changing or transferring an appropriation or contemplating or involving the payment of any money shall be adopted unless the board of estimate and apportionment shall have recommended or joined in recommending the same.

City Counselor Ops.: 7655, 7660, 7903, 7919, 7928, 8010, 8037, 8046, 8071, 8622, 9450, 10063, 10132, 10224, 10301, 10429

Cases:

The city may appropriate bonds instead of money for public improvements. *Jennings v. Kinsey*, 271 S.W. 786, 308 Mo. 265 (1925).

Ordinance fixing salaries of class of employees was not an appropriation ordinance. *State v. Miller*, 285 S.W. 504, 315 Mo. 41 (1926); *State v. City of St. Louis*, 204 S.W. 2d 234, 356 Mo. 820 (1947).

An ordinance passed for the purposes of condemnation does not necessarily involve the payment of money. *City of St. Louis v. Breuer*, 223 S.W. 108 (1920).

Establishment of Convention and Tourism Bureau was not inherently inconsistent with Charter requirements relating to appropriations. *Ruggeri v. City of St. Louis*, 441 S.W. 2d 361 (1969).

Lease agreement executed by city officials without authorization by city did not constitute a legal obligation of the city. *Vigran v. Poelker*, 433 F.Supp. 168 (1977).

Board of estimate and apportionment did not have discretion to delete or modify certain items included in circuit court's budget estimates without first obtaining relief from Judicial Finance Commission. *State*

ex rel. Twenty Second Jud. Circuit v. Jones, 823 S.W. 2d 471 (Mo.banc 1992).

History:

Submission Ordinance No. 66330

Submission Ordinance Approved July 23, 2004.

Amendment Substance: restructures city finance offices and functions.

Voter Rejection Date: November 2, 2004.

Section 26 Limitations on powers of board.

The board of aldermen shall not have power to relieve or exempt any person from the payment of any tax or from any burden imposed by law; nor to authorize the compromise of any disputed contractual demand, or any allowance on account thereof not provided for in the contract, except on recommendation of the board of estimate and apportionment; nor to authorize the payment of any damages claimed for alleged injuries to persons or property, except upon recommendation by the city counselor; or to appropriate any money for charitable purposes, except such as shall be subject to the administration or supervision of the city; nor to sell, lease or otherwise dispose of the waterworks; nor to sell any of the city's real estate except by ordinance adopted by a vote of two-thirds of all the members; nor to acquire real estate by private purchase except by ordinance recommended by the board of public service.

City Counselor Ops.: 7629, 8188, 8190, 8393, 8517, 8592, 8637, 9280, 9373, 9797, 9823, 9948

Cases:

The term "all the members" as used in the Charter refers to the full authorized membership of the Board of Aldermen, not the actual membership of the Board at the time a vote is taken. Braddy v. Zych, 702 S.W. 2d 491 (Mo. App. 1985).

History:



Submission Ordinance No. 66330

Submission Ordinance Approved July 23, 2004.

Amendment Substance: restructures city finance offices and functions.

Voter Rejection Date: November 2, 2004.

## *St. Louis City Charter Article V*

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## Article V INITIATIVE\*

\* Cases:

The people retain the right to legislate through the initiative procedure. *Pitman v. Drabelle*, 183 S.W. 1055, 267 Mo. 78 (1916); *State v. Miller*, 285 S.W. 504, 315 Mo. 41 (1926).

The people's power to amend the charter does not preclude amendments by the board of aldermen. *State v. City of St. Louis*, 5 S.W. 2d 1080, 319 Mo. 497 (1928).

The restriction that the board of public service must recommend a public improvement applies to proposals under the initiative as well as ordinances proposed by the board of aldermen. *Baum v. City of St. Louis*, 123 S.W. 2d 48, 343 Mo. 738 (1938).

The restriction that the board of public service must recommend a public improvement applies to proposals under the initiative as well as ordinances proposed by the board of aldermen. *Baum v. City of St. Louis*, 123 S.W. 2d 48, 343 Mo. 738 (1938).

When initiative proposal for charter amendment had signatures representing 10% but less than 15% of the registered voters at the last mayoralty election, the board of aldermen were required to place it on the ballot at the next general election even though no general election was scheduled between 30 and 90 days after certification of rejection by the board of aldermen. *State ex rel. Blackwell v. Travers*, 600 S.W. 2d 110 (1980).

Section 1 Use authorized.

The people shall have power, at their option to propose ordinances, including ordinances proposing amendments to this charter, and to adopt the same at the polls, with the same effect as if adopted by the board of aldermen and approved by the mayor, such power being known as the initiative. It shall be exercised as hereinafter provided, subject to the provisions of this charter.

City Counselor Ops.: 7865, 10027

Cases:

The people retain the right to initiate and adopt ordinances. *State v. Miller*, 285 S.W. 504, 315 Mo. 41 (1926).

The people's power to amend the charter does not preclude amendments by the board of aldermen. *State v. City of St. Louis*. 5 S.W. 2d 1080, 319 Mo. 497 (1928).

Initiative and referendum are essentially different. Initiative is the proposal of legislation by the public. It has no need for time limits and warrants a lesser initial support to justify submission to the voters. Referendum is the overturning of legislation enacted by the representatives of the people. It requires strict time limits so is not to unduly delay the effectiveness of duly enacted legislation and warrants a greater showing of initial support. The two are not, by their very

nature, interchangeable. State ex rel. St. Louis Regional Health Care Corp. v. Wamser, 735 S.W. 2d 741 (1987).

McQuillin:

16.48--16.70 Initiative and Referendum

Section 2 Petition required.

Such an ordinance shall be proposed by petition signed by registered voters equal in number to five percent or, in case the proposed ordinance is for the submission of an amendment to the charter, ten percent of all the registered voters of the city at the time of the last preceding regular mayoralty election. Each of the papers comprising the petition shall contain the proposed ordinance in full and designate by names and addresses five persons as the committee of the petitioners.

City Counselor Ops.: 10027, 10507

Section 3 Procedure employed in recall to be followed.

Each such petition and the papers comprising same shall be governed by, and proceedings shall be had thereon in accordance with, the provisions of section 3 and 5 of article III concerning the recall, but construing said sections with reference to the petition and the sufficiency thereof required by this article.

City Counselor Ops.: 10027

Section 4 Certification of petition; submission of proposed ordinance to voters.

If the board of election commissioners find that the petition, with supplements, if any, is sufficient, it shall forthwith certify that fact, together with a copy of the petition, omitting signatures, to the board of aldermen. Unless the proposed ordinance is, without amendment, adopted and approved by the mayor, or adopted, without amendment, over his veto, within sixty days after the regular meeting of the board of aldermen next after said certification, or unless four members of the committee of the petitioners shall, within fifteen days after the expiration of said sixty days, state in writing to the clerk of the board

of aldermen that there is no necessity for submitting the proposed ordinance to the voters, said clerk shall forthwith certify the failure to adopt same to the board of election commissioners. Said board of election commissioners shall thereupon provide for submitting said proposed ordinance, in its original form, to the voters at the first election at which such submission may lawfully be had, not less than thirty days after such certification to it by said clerk, and if there is no such election within ninety days after such certification, and the petition shall be signed by registered voters equal in number to seven per cent, or in case the proposed ordinance is for the submission of an amendment to the charter, fifteen per cent, of all the registered voters of the city at the time of the last preceding regular mayoralty election, then such submission shall be at a special election to be held within such ninety days if legally possible, otherwise at the earliest day on which such submission may be had at either a general or special election.

Cases:

This provision permits action earlier than the deadlines. *State v. Miller*, 285 S.W. 504, 315 Mo. 41 (1926).

Section 5 Form of ballot; adoption of ordinance; publication.

The ballots shall state the nature of the proposed ordinance, and to the right thereof in bold type the words "Yes" and "No" one above the other. To vote for such ordinance the voter shall strike out the word "No" and to vote against it, the word "Yes." If a majority voting on the proposed ordinance vote in favor thereof, it shall be an ordinance of the city, in effect ten days thereafter, and the board of election commissioners shall certify a copy thereof and the fact of its adoption to the register who shall number said ordinance and file and preserve said copy and certificate in his office. Such ordinance shall be published and printed copies thereof made for distribution as provided for other ordinances.

Section 6 Amendment or repeal of initiated ordinance.

No ordinance adopted at the polls under the initiative shall be amended or repealed by the board of aldermen except by vote of two-thirds of all the members, nor within one year after its adoption.

## *St. Louis City Charter Article VI*

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### Article VI Referendum\*

City Counselor Ops.: 10290

Section 1 When to be exercised.

The people shall have power, at their option, to approve or reject at the polls any ordinance (except it be an emergency measure as defined in section 20 of article IV), such power being known as the referendum and to be invoked and exercised as herein provided.

Cases:

An ordinance for public improvements outside city limits is legislative and subject to the referendum. *State v. Edwards*, 266 S.W. 127, 305 Mo. 431 (1924).

A proposition seeking the repeal of an ordinance and proposing a new ordinance in lieu thereof was held to be a referendum required to meet the requirements of Charter, Art. VI. *State ex rel. St. Louis Regional Health Care Corp. v. Wamser*, 735 S.W. 2d 741 (1987).

Initiative and referendum are essentially different. Initiative is the proposal of legislation by the public. It has no need for time limits and warrants a lesser initial support to justify submission to the voters. Referendum is the overturning of legislation enacted by the representatives of the people. It requires strict time limits so as not to

unduly delay the effectiveness of duly enacted legislation and warrants a greater showing of initial support. The two are not, by their very nature interchangeable. State ex rel. St. Louis Regional Health Care Corp. v. Wamser, 735 S.W. 2d 741 (1987).

McQuillin:

16.48--16.70 Initiative and Referendum

Section 2 Petition required; reconsideration of ordinance; submission to voters.

If within thirty days after the approval by the mayor of any ordinance (not an emergency measure) or its adoption over his veto, there is filed with the board of election commissioners a petition purporting to be signed by registered voters equal in number to two percent of all registered voters of the city at the time of the last preceding regular mayoralty election, requesting that said ordinance be reconsidered and rejected or referred, then said board shall certify that fact to the register and said ordinance shall not take effect except as hereinafter provided. Within ten days after such filing the said board shall find and certify the number of registered voters signing said petition and what percentage said number equals of the entire number of said registered voters at the time of said election. If the percentage so found is less than the two percent aforesaid, said board shall certify that fact to the register, the said petition shall not be supplemented, and said ordinance shall take effect. If the percentage so found is not less than two percent but is less than seven percent of all said registered voters at the time of said election, then within thirty days after the certification of such finding there may be filed with said board a supplemental petition, shown, by the affidavits appended thereto, to be signed by registered voters to a number which, with the number of registered voters who signed the original petition, equals in number said seven per cent. If such supplemental petition is filed, said board shall within ten days thereafter find and certify the number of registered voters signing same and whether such signers, added to registered voters who signed the original petition, equal in number said seven per cent. If it finds that the aggregate number of such signers does not equal said seven per cent, or if the committee of the petitioners make the statement in writing as hereinafter mentioned, said board shall certify the fact to the register, no further

supplementing shall be permitted, and said ordinance shall take effect. If said board finds the original petition, or the original and supplemental petitions together, to be signed by registered voters equal in number to said seven per cent, it shall, forthwith after either such finding, certify that fact, together with a copy of the petition (omitting the signatures), to the register and to the board of aldermen, and the latter board shall reconsider said ordinance. If on such reconsideration the board of aldermen by a majority vote rejects said ordinance, it shall not take effect. If the board of aldermen fails to finally and wholly reject said ordinance within thirty days after such certification to it, then, unless four members of the committee of the petitioners, within fifteen days after said thirty days expire, state in writing to the clerk of the board of aldermen that there is no necessity for submitting said ordinance to the voters, such clerk shall forthwith certify said failure to the board of election commissioners, which shall thereupon make provision for submitting such ordinance, in such form as it then shall be, to the voters; provided, that the final percentage of signers required to compel submission to the voters of an ordinance amending or repealing an ordinance adopted at the polls under the initiative shall be three percent instead of seven per cent, as required in case of other ordinances. Such submission shall be at the first election at which it may lawfully be had, not less than thirty days after the last mentioned certification, and if there is no such election within ninety days after such certification, and the original petition or the original and supplemental petitions together shall be signed by registered voters equal in number to twelve percent of all the registered voters of the city at the time of the aforesaid mayoralty election, or if the board of aldermen shall by resolution so request, such submission shall be at a special election to be held within such ninety days if legally possible, otherwise at the earliest day on which such submission may be had at either a general or special election. If the majority of the votes cast thereon at the election shall be for such ordinance, it shall take effect within ten days after such election.

Section 3 Procedure employed in recall to be followed.

The provisions of section 5 of article V, concerning the ballots and manner of voting, the duties of the board of election commissioners and the register, and the publishing of ordinances and printing of copies thereof, shall govern like matters under this article.

#### Section 4 How petition executed.

The signatures need not all be appended to one paper, but all papers comprising any original or supplemental petition under this article shall be uniform in character and shall each set forth the ordinance in full and contain the request mentioned in section 2, and designate by names and addresses five persons as the committee of the petitioners, and each such paper shall be verified by an affidavit stating the number of signatures thereto and that each signature was made in affiant's presence by, as affiant verily believes, the person whose name it purports to be; and all papers comprising an original or supplemental petition shall be assembled by the petitioners and filed with the board of election commissioners as one instrument. Each signer shall state opposite his signature his residence address. Any person shall be deemed a registered voter within the meaning of this article whose name is unerased on the registration books.

#### Section 5 What ordinance to prevail where conflict occurs.

If the provisions of two or more initiated or referred ordinances adopted or approved at the same election conflict, the one receiving the highest affirmative vote shall prevail in so far as such provisions conflict.

City Counselor Ops.: 8517, 8592

#### Section 6 Filing and publication of statements relating to initiative or recall propositions.

Any person may present to the city counselor at least twenty days prior to any election a written statement, not exceeding one thousand words, concerning any ordinance or recall proposition to be voted on at such election. The city counselor shall at least ten days before such election prepare and cause to be published in the paper or papers doing the city publishing a fair summary of all such statements.

### *St. Louis City Charter Article VII*

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## Article VII

### Mayor

#### Section 1 Powers and duties; compensation.

The mayor shall be the chief executive officer of the city and, except as by law or in this charter otherwise provided, have and exercise all the executive power of the city. He shall exercise a general supervision over all the executive affairs of the city and see that each officer and employee performs his duty and that all laws, ordinances, and charter provisions are enforced within the city. His salary shall be twenty-five thousand dollars (\$25,000) per annum. All process against the city shall be served upon him. He shall appoint and may remove all nonelective officers and all employees, except as otherwise in this charter provided, but shall not remove any office, department or division head appointed by him, except for cause. He shall execute all deeds and conditional bonds made in the name of the city and see that all contracts with the city are performed and that all legal proceedings necessary to enforce or protect the rights or interest of the city are brought and diligently prosecuted. He shall have a seat and a voice and may introduce ordinances, but not vote, in the board of aldermen, and shall make recommendations and give information to said board as to city affairs. He may remit, with or without condition, fines, costs, forfeitures and penalties imposed for violation of any ordinance or charter provision, and shall annually make a report thereof to the board of aldermen. He may examine the affairs and conduct of any department, board or office and require all officers to exhibit their accounts and papers and make reports to him. He shall annually appoint a certified public accountant to thoroughly audit all books, accounts and records relating to the fiscal affairs of the city and report the result to him. A copy of said report shall be filed with the register.

The mayor shall devote his entire time to the duties of his office.

City Counselor Ops.:

7622, 8393, 9409, 9843, 9882, 10099

Cases:

The mayor could not be required by statute to assume the additional duty of appointing a firemen's arbitration board. *State v. Cervantes*, 423 S.W. 2d 791 (1968).

The Commission on Retirement, Removal and Discipline has the power to investigate and punish city court judges for misconduct. In *re Fullwood*, 518 S.W. 2d 22 (1975).

Discharge of police chief by city manager without notice or hearing did not deprive police chief of due process of law. *Owen v. City of Independence*, 421 F.Supp. 1110 (1976).

City Charter did not require plenary pretermination hearing prior to dismissal of municipal judge by mayor. *Edwards v. Schoemehl*, 825 S.W. 2d 683 (Mo. App. 1992).

McQuillin:

12.41--12.44 Mayor or Chief Executive

History:

Submission Ordinance No. 44822

Submission Ordinance Approved February 1, 1949.

Amendment Substance: repeals Section 1, and reenacts same matter but changes Mayor's salary from \$10,000 to \$20,000 per year.

Voter Rejection Date: April 5, 1949.

Submission Ordinance No. 49821

Submission Ordinance Approved March 9, 1960.

Amendment Substance: repealing Section 1, and reenacting same matter regarding office of Mayor, but raising the Mayor's annual salary from \$10,000 to \$25,000.

Voter Adoption Date: August 2, 1960.

## Section 2 Qualifications.

No person shall become mayor unless he be at least thirty years of age, and shall have been, next before his election, both a citizen of the United States and a resident of the city for five years and an assessed taxpayer of the city for two years, nor [shall any person be elected to such office] if he shall have been convicted of malfeasance in office, bribery or other corrupt practice or crime. If the mayor be so convicted or become a nonresident of the city, he shall thereby forfeit his office.

City Counselor Ops.:

7847, 9843

Editor's Note: The words in brackets have been supplied for clarification.

## Section 3 Devolution of duties in event of disability or absence.

During the mayor's temporary disability or absence from the city his powers and duties shall devolve upon the president of the board of aldermen, or, if said president be also absent or disabled, upon the vice-president of said board.

City Counselor Ops.:

8323, 8403, 9038, 9843, 10056

## Section 4 Removal from office.

The mayor may be removed from office by the board of aldermen for crime or misdemeanor in office, for grave misconduct showing unfitness for public duty, or for permanent disability, three-fourths of all the members of said board voting for such removal. The proceedings for such removal shall be upon specific charges in writing, which, with a notice stating the time and place of the hearing,

shall be served on the mayor or published at least three times in a daily newspaper. The hearing shall be public, and the mayor shall have the right to appear and defend in person and by counsel, and have process of the board to compel the attendance of witnesses in his behalf. Such vote shall be determined by yeas and nays and the names of the members voting for or against such removal shall be entered on the journal.

City Counselor Ops.:

9843

Section 5 By whom vacancy in office filled.

Whenever a vacancy occurs in the office of mayor, the president of the board of aldermen shall become mayor, and shall hold such office until a successor is elected and qualifies. Such election, if for an unexpired term, shall be at the first general city or state election held fifty days or more after such vacancy occurs. While so holding the office of mayor a temporary vacancy shall exist in the office of the president of the board of aldermen. The vice-president of the board of aldermen shall hold the office of president of said board during any vacancy therein with the right of succession to the office of mayor.

City Counselor Ops.:

9843

Cases:

The vice-president of the board of aldermen becomes president when the president acts as mayor. *State v. Nolte*, 180 S.W. 2d 740, 352 Mo. 1069 (1944).

The president vacates his office only temporarily while serving as mayor. *State v. Barrett*, 180 S.W. 2d 493, 352 Mo. 1130 (1944).

When a successor to the office of mayor is elected in a general election the city must comply with state election laws. *State v. Barrett*, 181 S.W. 2d 493, 352 Mo. 1130 (1944).

## *St. Louis City Charter Article VIII*

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### Article VIII City Officers and Employees\*

\* Cases:

A license collector is a county officer not a city officer. Preisler v. Hayden, 309 S.W. 2d 645 (1958).

Requirement of college degree as prerequisite for employment as city health program representative did not constitute prohibited racial discrimination in employment. Rice v. City of St. Louis, 607 F2d 791 (1979).

McQuillin:

Ch. 12 Elections, Offices and Officers, Employees and Agents and Municipal Departments

Section 1 Appointments to be made by mayor; tenure.

The mayor shall appoint the following officers at his convenience, to hold for the term for which he was elected and until their successors qualify: assessor, supply commissioner, register, city counselor, city marshal, city court judges, clerk of city courts, president board of public service, director of public utilities, director of streets, director of welfare, director of parks, recreation and forestry, director of health and hospitals and director of public safety.

V.A.M.S.:

82.550 Assessor appointed by mayor

City Counselor Ops.:

10080, 10384

Cases:

A statute purporting to make assessors elected state officials was void. *Stocke v. Edwards*, 244 S.W. 802, 295 Mo. 402 (1922).

A statute providing that the treasurer is a county official prevents the mayor from appointing a treasurer. *State v. Dwyer*, 124 S.W. 2d 1173, 343 Mo. 973 (1938).

The positions set out in this section are not subject to the indefinite tenure provisions of Art. XVIII. *Riley v. Holland*, 243 S.W. 2d 79, 362 Mo. 682 (1951).

The Commission on Retirement, Removal and Discipline has the power to investigate and punish city court judges for misconduct. *In re Fullwood*, 518 S.W. 2d 22 (1975).

McQuillin:

12.69--12.101 Manner of Securing Office and Public Place; Election or Appointment

12.108--12.125 Tenure

History:

Submission Ordinance No. 49101

Submission Ordinance Approved August 9, 1958.

Amendment Substance: repealing Section 1 and enacting new Section 1, providing for appointment of directors of departments by Mayor, including a Director of Streets (and not Sewers), Director of Parks,

Recreation and Forestry, Director of Health and Hospitals (carved out of Department of Public Welfare), amongst others.

Voter Adoption Date: November 4, 1958.

Section 2 Residence requirement.

In addition to other qualifications required by this charter, except as provided hereinbelow, all officers and employees (in non-temporary, full-time positions) must reside in the City of St. Louis on or before 120 days have elapsed after appointment or, if the officer or employee serves in a working test period as provided by Civil Service Rule, then 120 days after the end of an initial working test period, not to exceed one year, and all employees and officers must maintain residence within the City of St. Louis during the entire tenure of their employment or of their appointment as an officer after said 120-day period and failing or ceasing so to reside, shall forfeit their office or employment. A waiver to the above residence requirements may be granted to an individual officer or employee, other than a Director or person who acts as a Director of a City Department, on an annual basis by the Civil Service Commission when said officer or employee occupies a position requiring a very high degree of specialized education or skill and when qualified candidates who are willing to fill said position and reside within the City of St. Louis are not reasonably available. The Civil Service Commission shall report annually in writing to the Board of Aldermen on all waivers granted in the preceding year with written explanations for each waiver that was granted.

City Counselor Ops.: 8058, 8215, 8234, 8362, 8368, 9215, 9221, 10080, 10345, 10388, 10426

Cases:

City residency requirement did not violate equal protection clause of the Fourteenth Amendment. *Slater v. City of St. Louis*, 548 S.W. 2d 590 (1977).

Nondiscriminatory residence requirement will be upheld. *Slater v. City of St. Louis*, 548 S.W. 2d 590 (1977).

McQuillin:

12.59--12.60 Residence

History:

Submission Ordinance No. 57117

Submission Ordinance Approved February 17, 1976.

Amended Substance: amends residency requirements for City employees and officers in Section 2, Article VIII, which now allows exceptions to be granted to the residency requirement and which requires that all officers and employees must reside in the City of St. Louis on or before 120 days have elapsed after the date of his or her employment as an employee or appointee as an officer with the City of St. Louis and all employees and officers must maintain said residence within the City of St. Louis during the entire tenure of his or her employment or of his or her appointment as an officer after said 120-day period and failing or ceasing so to reside, shall forfeit their office or employment. A waiver to the above residence requirements may be granted to an individual officer or employee, other than a Director or person who acts as a Director of a City Department on an annual basis by the Civil Service Commission when said officer or employee occupies a position requiring a very high degree of specialized education or skill and when qualified candidates who are willing to fill said position and reside within the City of St. Louis are not reasonably available. The above residency provisions shall apply to all appointed city officers and employees regardless of date of hiring or appointment of said officer or employee but said provisions shall only apply to Directors or persons who act as Directors of City Departments who are hired or appointed by the City of St. Louis on or after January 1, 1977. The Civil Service Commission shall report annually in writing to the Board of Aldermen on all waivers granted in the preceding year with written explanations for each waiver that was granted.

Voter Adoption Date: August 3, 1976.

Submission Ordinance No. 61198

Submission Ordinance Approved January 31, 1989.



Amendment Substance: adding new Section 2A to provide that the City may determine what bodies performing government or operational functions on behalf of the City constitute City Departments as used in Section 2.

Voter Rejection Date: March 7, 1989.

Submission Ordinance No. 64109

Submission Substance: repealing the former Article VIII, Section 2 of the Charter relating to the requirement of residence for city employees and officers and enacting in lieu thereof a new city employee and officer residence requirement which would require all city employees and officers to reside in the City of St. Louis on or before 120 days have elapsed after the date of said employee's employment as an employee or appointment as an officer or if employee has a working test period 120 days after the end of the initial working test period, providing for a maximum working test period length and providing for a waiver of residency by the Civil Service Commission.

Section 3 Oath of office.

Every officer, and every employee holding a position upon an annual salary, shall, before entering upon his duties and within such time as may be provided by ordinance, take and subscribe, and file with the register, an oath or affirmation that he has all the qualifications and is not subject to any of the disqualifications named in this chapter for the office or employment he is about to assume; that he will support the constitution of the United States and of this state and the charter and ordinances of the city; that he will be influenced only by the consideration of fitness in the appointment, promotion, demotion, suspension or discharge of officers or employes; that he will not expend nor authorize the expenditure of money otherwise than for adequate consideration and efficient service tot the City and will faithfully discharge the duties of his office or employment.

City Counselor Ops.: 10128, 10173

Cases:

It is at least debatable whether the oath of office is merely directory. State v. Mason, 154 S.W. 2d 67, 348 Mo. 436 (1941).

McQuillin:

#### 11.97 Oath of Office

Section 4 When official bond required; payment of premiums; failure to qualify.

The board of aldermen shall determine by ordinance whether and when any officer or employee shall give a bond and the amount and character thereof, subject to the provisions of charter. Premiums on all bonds of officers and employees shall be paid by the city, subject to such regulations as may be provided by ordinance. If any person elected or appointed to an office shall fail to take, subscribe and file an oath or affirmation as aforesaid, or to give bond as required by this charter or by law or ordinance, he shall forfeit his right to the office or employment.

City Counselor Ops.: 8094, 10279

McQuillin:

#### 12.98 Bond

Section 5 Liability of department heads for subordinates.

Each head of a department, office or division shall be responsible for the acts or omissions of officers and employees appointed by him, and may require bonds or other securities from them to secure himself.

City Counselor Ops.: 7929, 8753

McQuillin:

#### 12.226 Wrongful or Negligent Acts of Subordinates

Section 6 Vacancies in elective offices.

Any vacancy in any elective office, except in the board of aldermen, shall be filled by appointment by the mayor until a successor is

elected and qualifies. Such election, if for an unexpired term, shall be at the first general city or state election held fifty days or more after such vacancy occurs.

McQuillin:

12.100 When Vacancy in Office Exists

12.101 Authority to Fill vacancy

Section 7 Salaries and fees generally.

The board of aldermen shall by ordinance fix or provide for the fixing of salaries or compensation of officers and employes, jurors and witnesses, subject to the provisions of this charter. Payment for services of specialists or experts under article XIII, section 8, may be made either with or without an ordinance fixing the compensation for such services. All salaries or compensation under the classified service shall be uniform for like service. No salary in the unclassified service of the city shall be changed during the term for which the recipient was elected or appointed. No city officer shall retain any fees received by virtue of his office, but all fees shall belong to the city and be paid into the city treasury daily, unless some other time is provided by this charter or by law or ordinance.

City Counselor Ops.: 9346a

Cases:

Policemen are city officers, and by ordinance not entitled to witness fees. *State v. Kimmel*, 165 S.W. 1067, 256 Mo. 611 (1914).

A city official cannot change a salary established by ordinance. *Orthwein v. City of St. Louis*, 178 S.W. 87, 265 Mo. 556 (1915).

The power to fix salaries may be limited by an amendment requiring board members to seek the recommendation of a commission. *Kirby v. Nolte*, 173 S.W. 2d 391, 351 Mo. 525 (1943).

The ordinance, not a contract, fixed the compensation, including rental of a residence of the superintendent of the hospital. *McClellan v. City of St. Louis*, 170 S.W. 2d 131 (1943).

The board of aldermen may enact an ordinance reclassifying employees which results in a salary reduction. *Sanders v. City of St. Louis*, 303 S.W. 2d 925 (1957).

McQuillin:

12.174--12.207a Salaries and Compensation, Fees and Commissions

Section 8 Payment of salaries; maximum established; additional compensation or employment; interest in city contracts; political activity.

Notwithstanding any Charter provision to the contrary, all salaries shall be paid at least monthly. Salaries fixed in this Charter at a certain sum shall be construed to mean not less than such sum. All salaries for positions in the city service shall be established as provided in Article XVIII of this Charter. No officer or employee shall receive any additional compensation for serving in any other capacity under the city while in such office or employment; nor hold any office or employment under the state or United States except in the militia or as a notary public or as a teacher in a public educational institution. A teacher in a public educational institution may hold employment with the city. No officer or employee shall have a personal interest, directly or indirectly, in a contract with the city; and no elective officer shall be a member of the general city committee of any political party. Any person guilty of any willful violation of this section shall thereby forfeit his office or employment.

City Counselor Ops.: 8209, 8685, 8705, 8760, 8855, 9120, 9297, 9376, 9337, 9339, 9426, 9494, 9665, 9716, 9825, 9870, 9997, 10159, 10290, 10451

Cases:

Holding a state job after being laid off by the city does not violate this charter section and the city must pay accrued compensation. *Bruce v. City of St. Louis*, 217 S.W. 2d 744 (1949).

The maximum salary limitation was not repealed by the civil service amendment. *Simmons v. City of St. Louis*, 264 S.W. 2d 928 (1954).

Employee is entitled to sick leave benefits accrued while hospital was still a city hospital *Wilkins v. City of St. Louis*, 404 S.W. 2d 783 (1966).

The maximum salary limitation does not deprive plaintiffs of property without due process of law because they have only an expectation of a higher salary. *Bruce v. Scarce*, 390 F.Supp. 297 (1975).

The maximum salary limitation does not violate the equal protection clause. *Bruce v. Scarce*, 390 F.Supp. 297 (1975).

City charter provision limiting salaries of city employees and officials to \$25,000 did not violate the equal protection clause of the Fourteenth Amendment. *Bruce v. Scarce*, 390 F.Supp. 297 (1975).

Dual employment with city and city board of education violates this charter section. *Hughes v. Civ. Serv. Com'n of City of St. Louis*, 537 S.W. 2d 814 (1976).

Deputy marshal may not act as bondsman, even while on leave of absence. *State ex rel. Wright v. Poelker*, 548 S.W. 2d 285 (1977).

Physician, employed by the city, who had already been paid more than the \$25,000 charter limit, was not entitled to additional salary allegedly due him. *State ex rel. Yen Pen Chou v. Percich*, 579 S.W. 2d 765 (1979).

Firemen appointed as "acting captains" for a period of time after passing the competitive examination required for assuming the duties of a captain were not entitled to the wages of a captain. *Banta v. City of St. Louis*, 662 S.W. 2d 899 (Mo. App. 1983).

History:

Submission Ordinance No. 49101

Submission Ordinance Approved August 9, 1958.

Amendment Substance: repealing Section 8, and enacting new Section 8 with same subject matter, but without specification of maximum \$10,000 annual salary limitation.

Voter Rejection Date: November 4, 1958.

Submission Ordinance No. 49230

Submission Ordinance Approved January 30, 1959.

Amendment Substance: amend Section 8, to strike the words "but no salary under the City shall exceed Ten Thousand Dollars per annum" to effect removal of any salary ceiling.

Voter Rejection Date: April 7, 1959.

Submission Ordinance No. 49821

Submission Ordinance Approved March 9, 1960.

Amendment Substance: repealing Section 8, and reenacting same matter regarding salaries of City employees, but raising the maximum annual salary for City employees to \$25,000.

Voter Adoption Date: August 2, 1960.

Submission Ordinance No. 55716

Submission Ordinance Approved December 10, 1970.

Amending Ordinance No. 55730

Amending Ordinance Approved December 31, 1970, changing date of election from March 3, 1971, to March 9, 1971.

Amendment Substance: repeal Section 8, as amended, limiting City employee salaries to maximum of \$25,000 per year, enact new Section 8 without maximum limitation and providing that City employee salaries to be fixed in amount by ordinance recommended by the Civil Service Commission per Article XVIII, as amended.

Voter Rejection Date: March 9, 1971.

Submission Ordinance No. 56391

Submission Ordinance Approved January 4, 1973.

Amendment Substance: repeal Section 8 fixing maximum City officers and employees annual salary at \$25,000, by omission of such stated amount in such Section 8.

Voter Rejection Date: April 3, 1973.

Submission Ordinance No. 57155

Submission Ordinance Approved March 17, 1976.

Amendment Substance: permitting Civil Service Commission to recommend salaries in excess of \$25,000 per annum in certain professional administrative or technical positions.

Voter Rejection Date: November 2, 1976.

Submission Ordinance No. 57298

Submission Ordinance Approved February 4, 1977.

Amendment Substance: to amend Charter of the City by eliminating the salary limitation of Article VIII, Section 8, and provide that salaries for all City positions shall be established as provided in Article XVIII of the Charter.

Voter Rejection Date: April 5, 1977.

Submission Ordinance No. 57616

Submission Ordinance Approved June 2, 1978.

Amendment Substance: To amend the Charter of the City by changing the requirements of Section 8 of Article VIII by eliminating the salary limitation of \$25,000 and by establishing a salary of \$55,000 for the Mayor and \$45,000 for the Comptroller, and providing that the salaries of all other officials and employees shall be established by ordinance recommended by the Civil Service Commission, provided that the salary for any other City department head or employee may not exceed the salary of the Comptroller and that the salary of every other City employee may not exceed that of his department head.

Voter Rejection Date: August 8, 1978.

Submission Ordinance No. 58082

Submission Ordinance Approved June 3, 1980.

Amendment Substance: To remove \$25,000 limitation on salaries per annum for offices and employees and requiring that salaries for all positions of City services be established as provided in Article VIII of the Charter.

Voter Adoption Date: August 5, 1980.

Submission Ordinance No. 62560

Submission Ordinance Approved April 7, 1992.

Amendment Substance: To allow officers and employees of the city to hold office or employment under the state as a part time teacher, with the approval of the Director of Personnel, in a public educational institution.

Voter Adoption Date: November 3, 1992.

Submission Ordinance No. 64951

Submission Ordinance Approved June 15, 2000.

Amendment Substance: Relating to payment of salaries; the establishment of a maximum salary; additional compensation or employment; conflict of interest in city contracts; and political activity.

Voter Adoption Date: November 7, 2000.

Section 9 Suspension and removal from office.

Any elective officer (except a member of the board of aldermen), and any officer appointed by the mayor to fill any elective office, may be suspended by the mayor and removed by the board of aldermen for cause, three-fourths of all the members of said board voting for such removal. Immediately upon any such suspension the mayor shall notify the board of aldermen of same and within ten days shall file with the board charges in writing against such suspended officer, which with a notice of the time and place of the hearing, shall be



served on such officer or published at least three times in a daily newspaper. The hearing shall be public, and such officer shall have the right to appear and defend in person or by counsel, and have process of the board to compel the attendance of witnesses in his behalf. If the board be not in session, the mayor shall immediately call a special session to convene in not less than three nor more than ten days thereafter. If, upon a hearing, such officer be not removed, he shall be immediately reinstated in his office. The vote on such question shall be determined by yeas and nays, and the names of the members voting for or against such removal shall be entered on the journal. The clerk of the board shall forthwith certify the action of the board to the mayor. The mayor may appoint some suitable person to fill temporarily such office during the period of any such suspension.

McQuillin:

12.229--12.270 Removal, Suspension, Reinstatement

Section 10 Reports by executive boards and heads of departments.

Each executive board and the head of each department or office (except those under the board of public service, who shall report to said board) shall at least annually on a day or days fixed by ordinance make a full report to the mayor of the transactions of such board, department or office for the year and shall furnish to the board of aldermen or mayor at any time such information as either may require.

City Counselor Ops.: 10388

Section 11 Mayor to determine questions as to division of officers' powers.

All questions between officers as to their relative powers and duties shall be determined by the mayor except as in this charter otherwise provided.

Section 12 Devotion of entire times to duties.

All city officers and employees except the mayor, members of the board of aldermen, members of the Mullanphy Board, efficiency board,

complaint board, city plan commission, board of engineers, board of examiners of plumbers, board of children's guardians, the board in charge of the zoological park, and such others as may be excepted by ordinance, shall devote their entire time to the duties of their office.

## *St. Louis City Charter Article IX*

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## Article IX Register

Section 1 Powers and duties; bond; compensation.

The register shall have custody of the city seal, original rolls of ordinances, contracts, conditional bonds, title deeds, certificates and papers, and all other records, papers and documents not required by this charter or by ordinance to be deposited elsewhere, and register them by numbers, dates and contents, and keep such index thereof as may by ordinance be provided. He shall by his signature and the city seal, attest all instruments, signed in the name of the city and all official acts of the mayor; provide, and when required certify, as may be provided by ordinance, under his hand and the city seal, copies of ordinances, records, papers and documents in his office; cause copies of all ordinances to be printed through the supply division and kept in his office for distribution; register and preserve in his office all oaths or affirmations by city officers or employees; may administer such oaths and affirmations; shall give such bond and appoint such deputies and employees as may be provided by ordinance. He shall receive a salary of four thousand dollars per annum.

V.A.M.S.:

Ch. 51 County clerks

Ops. Atty. Gen.:

The registrar of the City of St. Louis is authorized to perform the duties of a county clerk. No. 125, January 18, 1966.

Section 2 Attestation and issuance of licenses and forms.

All blank licenses, tickets, receipts, permits, certificates or other blank forms as may be provided by ordinance shall be attested and issued by the register, and delivered and charged to the comptroller, who shall countersign and deliver them to the proper officers and take receipts therefor. All such blanks not used shall be returned to the comptroller, who shall cancel and return them to the register.

History:

Submission Ordinance No. 66330

Submission Ordinance Approved July 23, 2004.

Amendment Substance: restructures city finance offices and functions.

Voter Rejection Date: November 2, 2004.

### *St. Louis City Charter Article X*

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# Article X

## Law Department

### Section 1 Composition.

The law department shall consist of a city counselor, five associate and two assistant city counselors, and such other associates, assistants and employees as may be provided by ordinance.

City Counselor Ops.: 7701, 10286

McQuillin:

12.52--12.52c Law Department

### Section 2 Powers and duties of city counselor; compensation.

The city counselor shall be the head of the law department; appoint all associates, assistants and employees in his department; shall, through said department, direct the management of all the litigation in which the city is a party, including service in the city courts; represent the city in all legal matters and proceedings in which the city is a party or interested, or in which any of its officers are officially interested; advise the board of aldermen or any committee or member thereof and the mayor and the heads of all departments and through the mayor and heads of departments all other officers of the city as to all legal questions affecting the city's interest; and approve as to form all contracts, deeds, bonds and other documents to be signed in the name of or made to or with the city. He shall render the police department all legal advice and services required by it. He shall receive a salary of eight thousand dollars per annum.

V.A.M.S.:

86.047 City counselor to be legal advisor to police retirement system

87.160 Legal advisor--medical board

City Counselor Ops.: 7704, 8048, 8711, 8924, 9741, 9961

Cases:

The city counselor is not required to defend policemen sued for willful and malicious wrongdoing. Roberts v. City of St. Louis, 242 S.W. 2d 293 (1951).

Section 3 Qualifications of city counselor and appointees.

The city counselor and associate and assistant city counselors shall be attorneys-at-law entitled to practice in all the courts in the state for at least three years previous to their appointment.

City Counselor Ops.: 7710

### *St. Louis City Charter Article XI*

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## Article XI

### City Marshal\*

\* City Counselor Ops.: 8753

Section 1 Salary; duties; deputies.

The city marshal shall receive a salary of three thousand dollars per annum; execute and return all process, notices and orders of the mayor, law department, health commissioner and city court judges, and all other process, notices and orders as in this charter or by ordinance may be provided. He shall appoint such deputies and employees as may be provided by ordinance.

McQuillin:

45.10 City Marshal

Section 2 Abolition of office.

In case the police department shall become a department of the city, the marshal's functions shall devolve upon it and be exercised in such manner as may be provided by ordinance, in which event the office of marshal shall be abolished.

## *St. Louis City Charter Article XII*

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## Article XII City Courts

Section 1 Judges.

There shall be two city court judges, who shall have been for at least five years licensed attorneys, one to be known as judge of city court one, and the other as judge of city court two, each of whom shall receive a salary of three thousand dollars per annum.

City Counselor Ops.: 7814, 8920, 10304

Section 2 Powers of board of aldermen; substitute judges; places of holding court.

The board of aldermen may by ordinance adopted by the vote of two-thirds of all the members increase the number of city courts and judges. It may, by ordinance, divide the city into judicial districts and regulate the jurisdiction thereof, and may from time to time alter same. Whenever any such judge is absent or unable to hold court, the mayor shall appoint an eligible person to act during such absence or

inability, who shall receive such compensation as may be provided by ordinance. Such courts shall be held in places provided for by ordinance, and, in the absence of such ordinance provision, in such places as the mayor may direct.

City Counselor Ops.: 10304, 10373

Cases:

An action for violation of a city ordinance is civil in nature and the city has the same right to appeal as any other party to a civil action. *City of St. Louis v. Mikes*, 372 S.W. 2d 508 (1963).

Section 3 Jurisdiction.

The city courts shall have jurisdiction of all cases arising under this charter or any ordinance, subject to appeal by the city or the defendant to the St. Louis court of criminal correction in like manner as provided by law for appeals from justices of the peace in criminal cases to their appellate courts; may punish contempts of court by fine not exceeding fifty dollars or by imprisonment not exceeding ten days, or both; enforce its orders and judgments as a court of record may, and render final judgment on any forfeited bond or recognizance returnable to such court, subject to an appeal, as in other cases.

V.A.M.S.:

37.01 et seq. Missouri rules of practice and procedure in municipal courts.

City Counselor Ops.: 10152

Cases:

The city courts are expressly given jurisdiction over all cases arising from any violation of any ordinance of the city. *State v. Mathews*, 162 S.W. 2d 352 (1942). *City of St. Louis v. Bouckaert*, 185 S.W. 2d 886 (1945).

The city may appeal from a judgment for the defendant in a proceeding for violation of a city ordinance. *City of St. Louis v. Penrod*, 332 S.W. 2d 34 (1960).

A proceeding for violation of a city ordinance is a civil action. City of St. Louis v. Penrod, 332 S.W. 2d 34 (1960).

McQuillin:

27.01--27.04 The Court and Its Jurisdiction

Section 4 Clerk.

There shall be one clerk for all the city courts, who shall receive a salary of twenty-four hundred dollars per annum, and appoint such deputies and employees as may be provided by ordinance.

City Counselor Ops.: 8753, 10178, 10219, 10304.

### *St. Louis City Charter Article XIII*

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## Article XIII

### Board of Public Service\*

\* City Counselor Ops.: 8271, 9858, 10232, 10403

Cases:

Empowering the board of public service to ascertain if applicant comes within ordinance's specifications is not an invalid delegation of legislative authority. Ex parte v. Lockhart, 171 S.W. 2d 660, 350 Mo. 1220 (1943).

Section 1 Creation and composition.



There shall be a board of public service, consisting of the president of said board, and six directors, who shall be known as director of public utilities, director of streets, director of welfare, director of parks, recreation and forestry, director of health and hospitals and director of public safety. They shall be the heads of and exercise supervision over their respective departments hereby created, as follows: department of the president, department of public utilities, department of streets, department of welfare, department of parks, recreation and forestry, department of health and hospitals, and department of public safety.

City Counselor Ops.: 9791, 10304, 10384

Cases:

State school board need not comply with city's sewer requirements when state standards are established. Board of Education v. City of St. Louis, 184 S.W. 975, 267 Mo. 356 (1916).

History:

Submission Ordinance No. 49101

Submission Ordinance Approved August 9, 1958. Amendment Substance: repealing Section 1, and enacting a new Section 1, relating to the constituency of the Board of Public Service to include the Directors of Streets, Parks, Recreation and Forestry, and the Director of Health and Hospitals, (carved out of Department of Welfare).

Voter Adoption Date: November 4, 1958.

Submission Ordinance No. 57172

Submission Ordinance Approved March 23, 1976.

Amendment Substance: changing the name of the Department of Welfare as it appears in Sections 1 and 14-A of Article XIII to the Department of Human Resources, and changing the title of the Director of Welfare as said title appears in Sections 1 and 14-A (a), (b), (c), (d), and (e), to Director of Human Resources.

Voter Rejection Date: November 2, 1976.

## Section 2 Qualifications of certain members.

The president of the board and the directors of public utilities and of streets and sewers shall be engineers of technical training, of at least ten years' experience, and qualified to design as well as to direct engineering work.

City Counselor Ops.: 7895, 9418

## Section 3 Designation of deputies.

Any member of the board of public service may designate any officer in any department under said board to act as his deputy, but such deputy shall have no vote on the board.

City Counselor Ops.: 8078, 9913, 9845

## Section 4 Meetings; quorum; proceedings.

The board of public service shall meet at least once each week at its office. The president of the board shall preside at its meetings. A majority of said board shall constitute a quorum for the transaction of business, but no final action shall be taken in any matter concerning the department of any absent member unless such matter has been made the special order of the day. Said board shall furnish through its president to the mayor and the board of aldermen such data and information as may be required, or which it may from time to time deem necessary; prescribe rules and regulations necessary and proper to carry out its functions; appoint a secretary and such other employees as may be provided by ordinance; and keep a record of its proceedings which shall be open to the public. Final action on any matter shall be taken by yeas and nays and entered on its record. An abstract of its proceedings shall be published in the paper or papers doing the city publishing.

City Counselor Ops.: 8025, 9567, 9944, 10268, 10304

## Section 5 Powers and duties.

The board of public service shall have power:

City Counselor Ops.: 8365, 8528, 9311, 9718, 10270, 10304

Cases:

An ordinance providing for condemnation does not need the board's approval. *City of St. Louis v. Breuer*, 223 S.W. 108 (1920).

(a) Supervision of departments. To exercise supervision and control over the aforesaid departments and the heads thereof.

City Counselor Ops.: 10318

(b) Permits for use of public places. To grant permits to occupy or use portions of any public grounds, highways, streets, alleys or other public places, consistent with the public use thereof and not inconsistent with any law or general ordinance, including permits for switch connections, and any such permit may be revoked by said board at will; but this power shall never be deemed to vest in said board the right to grant franchises.

City Counselor Ops.: 7125, 7657, 7658, 7661, 7846, 8024, 8028, 8100, 8237, 8310, 8343, 8378, 8427, 8431, 8535, 8939, 8962, 9003, 9018, 9617, 9699, 9804, 9829(I), 10008, 10023, 10425.

Cases:

The board may issue certificates of necessity and convenience to public movers pursuant to ordinance. *Ex parte Lockhart*, 171 S.W. 2d 660, 350 Mo. 1220 (1943).

(c) Permits for private businesses. To grant permits, according to such general rules and regulations as may be provided by general ordinance, in relation to any private business required by ordinance to have a permit as a condition of or in connection with its conduct or operation.

City Counselor Ops.: 8378, 8427, 8910

Cases:

The board may issue certificates of necessity and convenience as a prerequisite for movers to engage in their business. *Ex parte Lockhart*, 171 S.W. 2d 660, 350 Mo. 1220 (1943).

(d) Grants and dedications of property. To accept or reject grants or dedications, absolute or conditional, of highways, streets, boulevards, parkways, alleys or other property for any public use. No plat of any addition or subdivision, or any plat or map attached to any deed, shall be filed or recorded in the recorder's office unless the same shall first be approved by the board as to public highways, streets, boulevards, parkways, alleys or other public places represented thereon, and the grades thereof, except plats accompanying judgment or orders of court in partition and other suits where such plats form a part of such proceedings.

City Counselor Ops.: 8722, 8970, 9574, 9818, 9974, 10318, 10334

Cases:

When an ordinance is for a public work it must be first proposed by the board. *American Tobacco Co. v. Missouri Pac. Ry. Co.*, 157 S.W. 502, 247 Mo. 374 (1912).

Board was authorized to accept deed waiving damages for grading the streets. *Stapenhorst v. City of St. Louis*, 229 S.W. 754, 287 Mo. 285 (1921).

(e) Establishment of grades. To establish the grades of the center line of all public highways, streets, boulevards, parkways and alleys. Upon demand of the owner of the property abutting on any public highway, street, boulevard, parkway or alley, the board shall determine the grade of the line of said public highway, street, boulevard, parkway or alley forming the boundary line of such property.

City Counselor Ops.: 8722

(f) City engineering, construction and reconstruction. To control and conduct any and all engineering, construction and reconstruction work undertaken by the city and to supervise all such work in which the city is interested. All plans and specifications for such work shall be prepared under the direction of the board and be subject to its approval.

City Counselor Ops.: 7675, 7846, 8203, 8962, 9343

(g) Additional powers and duties. To make such recommendations, exercise such powers and perform such duties as may be required of it by this charter or by ordinance.

City Counselor Ops.: 7675, 9791

Section 6 Organization of departmental divisions.

Said departments shall have divisions as herein established. The head of each department shall appoint all heads of divisions in his department and an officers and employees in his department not assigned to a division. The head of each division shall manage his division and appoint all officers and employees therein.

City Counselor Ops.: 8209, 9485

Section 7 Departmental relations; distribution of powers and duties.

All departments under the board of public service shall cooperate, and the employees or assistants in any one department or division may, under the order of the board, be temporarily utilized by any other department or division. All questions as to the distribution of powers or duties between such departments shall be determined by the board.

City Counselor Ops.: 9486, 9802, 10038, 10049, 10394

Section 8 Employment of specialists.

The board may at any time, with the approval of the board of estimate and apportionment, appoint specialists or experts in connection with any public work or improvement for which an appropriation has been made and pay for their services out of such appropriation.

City Counselor Ops.: 9343, 9885, 10178

Section 9 Department of the president.

The department of the president shall have charge and supervision of all public work and improvements undertaken by the city or in which the city is interested and prepare all plans and specifications therefor, except where supervision work or preparation is herein or by the board of public service otherwise assigned or provided.

## Section 10 Department of public utilities--Powers and duties.

The department of public utilities shall have general supervision over the maintenance, equipment, operation and service, and the assessment of rates and charges, of all public utilities owned or operated by the city. It shall execute or cause to be executed all ordinances regulating the construction, reconstruction, extension, maintenance, equipment, operation, service or rates of public utilities operating under franchises, licenses or permits, or compelling extensions of facilities for such service. The director of said department shall make investigations and reports in relation to any of the foregoing matters as may be provided by ordinance or required by the board of public service, and in connection therewith shall have power to subpoena witnesses and order the production of books and papers relating thereto. He shall have charge of the supervision of city lighting and of the municipal electric lighting plants and electrical equipment in city buildings.

### Cases:

The board has the power to subpoena the president of a public service corporation. *Ex parte Holman*, 191 S.W. 1109, 197 Mo. App. 70 (1917).

## Section 11 Department of public utilities--Water division.

There shall be a water division in this department and the head thereof shall be known as the water commissioner. It shall have under its special charge the operation and maintenance of the waterworks and of all facilities for the acquisition and distribution of water. It shall assess water rates as may be provided by ordinance and make out the bills therefor and deliver same to the comptroller, who shall deliver them to the collector, take his receipt therefor, and charge them therewith on the comptroller's books.

As long as any of the "St. Louis Water Bonds" or renewals thereof or bonds issued on the special credit of the waterworks or facilities remain unpaid the water rates shall be fixed at prices that will produce revenue sufficient at least to pay the running expenses of the water division and the interest on all such bonds and renewals.

City Counselor Ops.: 8220, 8595, 8938

Section 12 Accounts of city-owned utilities to be segregated.

The accounts of all public utilities owned and operated by the city and dependent for their revenues upon the sale of their products or services shall be kept separate and distinct from all other accounts of the city, and shall contain proportionate charges for all services performed for such utilities by other departments, as well as proportionate credits for all services rendered.

City Counselor Ops.: 7690, 8938

Section 13 Department of streets.

The department of streets shall have charge of the repairing, cleaning and maintenance of all public highways, streets, boulevards, alleys, bridges, wharves and levees; the sprinkling of streets and the collection and disposal of garbage, ashes and refuse, and except as otherwise provided by law or ordinance shall have charge of the enforcement and execution of all ordinances relating to any of the matters referred to in this section or to the harbor.

City Counselor Ops.: 8333, 8962, 9051, 10038, 10408

History:

Submission Ordinance No. 49101

Submission Ordinance Approved August 9, 1958.

Amendment Substance: Section 13 repealed and reenacted as new Section 13, but deleting subsection "(b)" relating to "sewers" and changing the title of the Department of Streets and Sewers to delete "Sewers."

Voter Adoption Date: November 4, 1958.

Section 14-A Department of welfare.

The department of welfare shall be in the charge of a director of welfare appointed by the mayor. The department shall include a division of children's services and a division of adult services.

City Counselor Ops.: 7617, 7669, 7982, 8157A, 8185, 8209, 8357, 9221, 9303, 9485, 9785, 10384

Cases:

The sheriff has charge of the city jail in which are confined prisoners sentenced by the circuit court. *Lefman v. Schuler*, 296 S.W. 808, 317 Mo. 671 (1927).

Complaints to the general welfare board should not be made public. *State v. Reynolds*, 209 S.W. 100, 276 Mo. 688 (1919).

(a) Director--Qualifications--Duties. The director of welfare shall be chosen on the basis of administrative ability and demonstrated interest in social welfare problems. He shall be responsible for the supervision and coordination of all activities of the department of welfare, including provision for such legal aid and representation in court for indigents as may be authorized by ordinance.

City Counselor Ops.: 8414, 10384

(b) Division of children's services. The division of children's services shall be in the charge of a commissioner of children's services appointed by the director of welfare. The commissioner shall be responsible for operating and maintaining institutions for the care and maintenance of dependent children and the emergency care of delinquent children; for taking charge of and caring for children committed to the city by the courts; for placing children in institutions or foster homes; and for administering such other welfare services, including services to children in their own homes, as may be provided by law or ordinance.

(c) Division of adult services. The division of adult services shall be in the charge of a commissioner of adult services appointed by the director of welfare. The commissioner shall be responsible for operating and maintaining detentive, penal, and corrective institutions; for investigating parole applications and making



recommendations relative thereto; for exercising supervision in parole and probation cases; and for administering such other welfare services as may be provided by law or ordinance.

(d) Board of children's welfare services. There shall be a board of children's welfare services consisting of seven members appointed by the mayor for terms of four years, except that of the members first appointed one shall be appointed for a term of one year, two for terms of two years, and two for terms of three years. All appointed members shall be chosen on the basis of demonstrated interest in the welfare of children. The board shall assist the director of welfare in establishing the policies under which the division of children's services shall operate, and shall advise the director on other matters pertaining to the welfare of children.

V.A.M.S.:

10.250 et seq. Board of children's guardians

(e) Board of adult welfare services. There shall be a board of adult welfare services of seven members appointed by the mayor for terms of four years, except that of the members first appointed one shall be appointed for a term of one year, two for terms of two years, and two for terms of three years. All members shall be chosen on the basis of demonstrated interest in the welfare of adults. The board shall advise the director of welfare on matters pertaining to welfare programs of adults, and shall designate three of its members to serve as a parole committee. Said committee shall grant paroles, consistent with the provisions of any law or ordinance.

City Counselor Ops.: 9001

(f) Mullanphy fund. The Bryan Mullanphy emigrant and travelers' relief fund shall be administered in such manner as shall be provided by ordinance enacted upon recommendation of the mayor.

History:

Submission Ordinance No. 49101

Submission Ordinance Approved August 9, 1958.

Amendment Substance: repeal Section 14, and enacting a new Section 14, having 3 new Sections 14-A, 14-B, and 14-C, establishing (in addition to the prior Department of Welfare) two new departments therefrom, namely: Section 14-B, a Department of Parks, Recreation and Forestry; and Section 14-C, a department of Health and Hospitals; each with dependent divisions.

Voter Adoption Date: November 4, 1958.

Submission Ordinance No. 57172

Submission Ordinance Approved March 23, 1976.

Amendment Substance: changing the name of the Department of Welfare as it appears in Sections 1 and 14-A of Article XIII to the Department of Human Resources, and changing the title of the Director of Welfare as said title appears in Sections 1 and 14-A (a), (b), (c), (d), and (c), to Director of Human Resources.

Voter Rejection Date: November 2, 1976.

Section 14-B Department of parks, recreation and forestry.

The department of parks, recreation and forestry shall be in the charge of a director of parks, recreation and forestry appointed by the mayor. The department shall include a division of parks, division of recreation and a division of forestry.

City Counselor Ops.: 7617, 7669, 7982, 8157A, 8185, 8209, 9221, 9362, 9485, 9785, 10417

McQuillin:

12.47 Parks Department

(a) Director--Qualifications--Duties. The director of parks, recreation and forestry shall be chosen on the basis of administrative ability and demonstrated interest in park and recreational problems. He shall be responsible for the supervision and coordination of all activities of the department of parks, recreation and forestry. He also shall grant all permits to occupy or use portions of any park, park area, historic site, playground, swimming pool, garden, or other area owned or used by

the city for recreational purposes, and facilities in connection therewith, except highways, streets, or park drives therein, which such occupancy or use is consistent with the public use thereof and is not inconsistent with any law or general ordinance, and any such permit may be revoked by the director at any time.

City Counselor Ops.: 8601, 10008, 10407

(b) Division of parks. The division of parks shall be in the charge of the commissioner of parks appointed by the director of parks, recreation and forestry. The commissioner shall be responsible for developing, managing, operating, and maintaining parks, park areas, historic sites, playgrounds, swimming pools, gardens, and other areas owned or used by the city for recreational purposes, and facilities in connection therewith; for operating and maintaining the city's greenhouses and nurseries.

City Counselor Ops.: 9548

(c) Division of recreation. The division of recreation shall be in the charge of a commissioner of recreation appointed by the director of parks, recreation and forestry. The commissioner shall be responsible for the development and administration of the city's public recreational program and for general supervision and control over all other recreational activities in the city parks and recreational areas.

City Counselor Ops.: 9548, 10228

(d) Division of forestry. The division of forestry shall be in the charge of a commissioner of forestry appointed by the director of parks, recreation and forestry. The commissioner shall be responsible for planting, trimming, and maintaining all city-owned trees along all public highways, streets, boulevards, and parkways; and for maintaining free of weeds all unimproved or unused plots of ground owned by the city.

City Counselor Ops.: 8592, 9107, 10493

(e) Board of parks and recreation. There shall be a board of parks and recreation of six members appointed by the mayor for terms of four years, except that of the members first appointed one shall be

appointed for a term of one year, one for a term of two years, and one for a term of three years. The board shall advise the director of parks, recreation and forestry on matters relating to parks and recreation, and shall hear complaints of individuals and groups concerning the use of parks and recreational facilities and make recommendations to the director relative thereto.

History:

Submission Ordinance No. 49101

Submission Ordinance Approved August 9, 1958.

Amendment Substance: repeal Section 14, and enacting a new Section 14, having 3 new Sections 14-A, 14-B, and 14-C, establishing (in addition to the prior Department of Welfare) two new departments therefrom, namely: Section 14-B, a Department of Parks, Recreation and Forestry; and Section 14-C, a department of Health and Hospitals; each with dependent divisions.

Voter Adoption Date: November 4, 1958.

Section 14-C Department of health and hospitals.

The department of health and hospitals shall be in charge of a director of health and hospitals appointed by the mayor. The department shall include the following divisions: (1) health, and (2) hospitals.

City Counselor Ops.: 7617, 7669, 7982, 88024, 8157A, 8185, 8209, 9221, 9485, 9785, 9916, 10289, 10453

Cases:

An ordinance providing for the department of safety rather than the department of health to enforce smoke emission standards was valid. *Ballentine v. Nester*, 164 S.W. 2d 378, 350 Mo. 58 (1942).

A hospital record which is required to be kept is admissible evidence. *Galli v. Wells*, 239 S.W. 894, 209 Mo. App. 460 (1922); *Marx v. Parks*, 39 S.W. 2d 570 (1931); *Knickerbocker v. Athletic Tea Co.*, 285 S.W. 797 (1926).

City can regulate health standards in school lunchrooms. Bredeck v. Board of Education of City of St. Louis, 213 S.W. 2d 889 (1948).

McQuillin:

## 12.51 Health Department

(a) Director--Qualifications. The director of health and hospitals shall be a regularly licensed practitioner of medicine and surgery and a graduate of a recognized school of medicine or shall have completed graduate work in a recognized school of public health to the level of a Master's Degree in Public Health or have been certified by the American Board of Preventive Medicine and Public Health. The director also shall have had at least three years' experience in the practice of medicine and at least three years' experience in public health work, with at least two years of such experience in a responsible administrative capacity.

History:

Submission Ordinance No. 65578

Amendment Substance: repeal Section (a) so Director does not have to be a doctor.

Voter Adoption Date: November 5, 2002.

(b) Director--Duties. The director of health and hospitals shall be responsible for the supervision and coordination of all activities of the department of health and hospitals.

City Counselor Ops.: 8021

(c) Division of health. The division of health shall be in the charge of a health commissioner appointed by the director of health and hospitals. The commissioner shall have general supervision over the public health and shall be responsible for the administration of the public health programs. He shall adopt, with the approval of the director of health and hospitals and after submission to the board of health for its conclusions and recommendations, and consistent with the provisions of this charter and any law or ordinance, such rules and regulations as will tend to preserve or promote the public health.

The health commissioner shall see that the laws and ordinances relating to public health are observed and enforced, and for such purpose he may enter or authorize and require any employee or police officer to enter and inspect any building, lot, or place within the city for conditions affecting the public health, and may declare and abate nuisances as provided by this charter or by law or ordinance. If he finds that the existence of a nuisance is plain and its continuance a danger to public health, he may declare such nuisance and danger and enter such declaration in the records of his office. He shall then immediately abate such nuisance without notice. In all other cases, before abating a nuisance on private property, he shall hold a hearing upon notice given personally to the owner or his agent or by posting on or near the premises, whereupon he may declare the nuisance and order its abatement. If the nuisance is not abated as ordered, he shall abate the same. In case of abatement of nuisance on private property, the cost thereof may be assessed and collected as a special tax and be a lien on such property as provided by ordinance. Any person causing or maintaining any nuisance shall be liable to the city in a civil action for the expense incurred in abating such nuisance. Failure to abate a nuisance after an order of abatement shall constitute a misdemeanor, punishable as provided by ordinance.

Whenever any malignant, infectious, or contagious disease is threatened or is prevalent in the city, on proclamation thereof by the mayor and with the approval of the mayor and the director of health and hospitals, the health commissioner may take such steps, use such measures, and incur such expense as he deems necessary to avoid, suppress, or mitigate such disease until the mayor proclaims the need therefor ended, notwithstanding anything to the contrary in this charter or in any ordinance.

The health commissioner shall have charge of the quarantine, the dog pound, and the registration of all births and deaths within the city.

The commissioner shall keep a record of his acts and orders and shall file in his office all petitions, documents, and papers belonging thereto. Copies of such records, petitions, documents, and papers when certified by him or as provided by ordinance shall be prima facie evidence in any court of the facts therein contained.

City Counselor Ops.: 9957, 10325

(d) Division of hospitals. The division of hospitals shall be in the charge of a hospital commissioner appointed by the director of health and hospitals. The commissioner shall be responsible for the operation of all hospitals, infirmaries, other institutions for the care of the sick, and nursing schools, except such clinics and medical activities as are carried on as functions of the division of health.

(e) Board of health. There shall be a board of health of five members appointed by the mayor for terms of four years, except that of the members first appointed one shall be appointed for a term of one year, one for a term of two years, and one for a term of three years. The board shall advise the director of health and hospitals on matters relating to public health; examine all proposed public health rules and regulations and transmit its conclusions and recommendations to the director; and hear and determine such appeals from decisions, rulings, and orders of the health commissioner as may be provided for by ordinance.

City Counselor Ops.: 8453

(f) Board of hospitals. There shall be a board of hospitals of eight members appointed by the mayor for terms of four years, except that of the members first appointed two shall be appointed for terms of one year, two for terms of two years, and two for terms of three years. Three members of the board shall be regularly licensed practitioners of medicine or surgery, of which members two shall be appointed after consultation with the deans of medical schools whose faculties assist in making medical services available at city hospitals, and one shall be appointed after consultation with the St. Louis Medical Society. At least two non-medical members of the board shall have had at least three years' experience as a member of said board or of the governing board of an accredited general hospital. The board of hospitals shall advise the director of health and hospitals on matters relating to hospitals. The board shall meet not less than six times a year to receive from the hospital commissioner a report on the activities and problems of his division since the next preceding meeting and such special reports as the board may request.

(g) Joint meetings of health and hospital boards. The board of health and the board of hospitals shall meet together upon call of the director of health and hospitals.

History:

Submission Ordinance No. 49101

Submission Ordinance Approved August 9, 1958.

Amendment Substance: repeal Section 14, and enacting a new Section 14, having 3 new Sections 14-A, 14-B, will 14-C, establishing (in addition to the prior Department of Welfare) two new departments therefrom, namely: Section 14-B, a Department of Parks, Recreation and Forestry; and Section 14-C, a department of Health and Hospitals; each with dependent divisions.

Voter Adoption Date: November 4, 1958.

Submission Ordinance No. 58647

Submission Ordinance Approved August 31, 1982

Amendment Substance: deletion of Section 14-C and substitution of new Section 14-C, combining the Board of Health and Board of Hospitals.

Rejected by Voters

Section 15 Department of public safety.

The department of public safety shall include the following divisions:

City Counselor Ops.: 8401, 9706, 9790, 10289

(a) Division of police. When the city is permitted by law to establish and maintain a police department, such department shall be a division hereunder. The head of said division shall be known as police commissioner. He may be removed, with or without cause, by the director of public safety or by the governor of the state.

City Counselor Ops.: 7895

(b) Division of excise. When the city is permitted by law to establish and maintain an excise department, such department shall be a division hereunder. The head of said division shall be known as excise



commissioner. He may be removed, with or without cause, by the director of public safety or by the governor of the state.

(c) Division of fire and fire prevention. There shall be a division of fire and fire prevention which shall manage, control and conduct the fire department, and take all proper steps for fire prevention or suppression. The head of said division shall be known as chief of the fire department. In case of emergency, with the approval of the director of public safety, he may purchase or hire whatever may be required for the emergency, with or without authority or appropriation by ordinance therefor. He or any assistant in charge at any fire shall have the same police powers at such fire as the chief of police, under such regulations as may be prescribed by ordinance. He may appoint a fire marshal, whose duty it shall be, subject to the chief of the fire department, to investigate the cause, origin and circumstances of fire and the loss occasioned thereby and assist in the prevention of arson. The chief of the fire department shall have charge of the fire and police telegraph and telephone systems.

City Counselor Ops.: 7926-A, 8077, 8934, 9114, 9220, 9335

Cases:

The city has the power to inspect buildings and enforce fire regulations. *Kalbfell v. City of St. Louis*, 211 S.W. 2d 911, 357 Mo. 986 (1948).

History:

Submission Ordinance No. 49102

Submission Ordinance Approved August 9, 1958.

Amendment Substance: repealing Section 15(c) and substituting a new Section 16, taking the Division of Fire and Fire Prevention from the Department of Public Safety and establishing a new Fire Department and providing for its administration, hours of working and equipage.

Voter Rejection Date: November 4, 1958.

Submission Ordinance No. 54217

Submission Ordinance Approved June 7, 1966.

Submission Ordinance amended by Ordinance No. 54276, approved August 26, 1966, changing date of election from August 2, 1966, to November 8, 1966.

Amendment Substance: repealing Section 15(c) relating to the Division of Fire and Fire Prevention, and enacting a new Section 16 establishing a Fire Department with four dependent subsections (a), (b), (c), and (d), establishing a Fire Chief and other lesser offices, defining their duties, making the Fire Chief a member of the Board of Public Service; restoring replaced fire chiefs to their prior rank and salary; appointment and duties of a Fire Marshal; requiring, except in emergencies, the hours of duty, compensation, etc. of Fire Department members to be by ordinance recommended as per Article XVIII, Civil Service.

Voter Rejection Date: November 8, 1966.

(d) Division of weights and measures. There shall be a division of weights and measures, which shall execute all ordinances regulating or relating to weights and measures or the inspection thereof. The head of said division shall be known as the commissioner of weights and measures.

(e) Division of building and inspection. There shall be a division of building and inspection. It shall superintend all buildings belonging to or under the control of the city and have charge of the condemnation of unsafe buildings and the prevention of the use of buildings while unsafe, the granting of building permits, the inspection of all buildings in course of construction, the enforcement of all building ordinances, the supervision of all plumbing, the abatement of the smoke nuisance, and the inspection of all boilers, elevators and mechanical plants. The head of said division shall be known as the building commissioner.

City Counselor Ops.: 8624, 9658, 9946, 10085, 10226, 10276, 10394

Cases:

An ordinance providing for the department of safety rather than the department of health to enforce smoke emission standards was valid. *Ballentine v. Nester*, 164 S.W. 2d 378, 350 Mo. 58 (1942).

City can regulate construction and materials of buildings, inspect them, prevent their use when necessary and require alteration for safety. *Kalbfell v. City of St. Louis*, 211 S.W. 2d 911, 357 Mo. 986 (1948).

The building commissioner has some discretion to determine the meaning of certain standards. *Kalbfell v. City of St. Louis*, 211 S.W. 2d 911, 357 Mo. 986 (1948).

The building commissioner may condemn a building only when it cannot be made safe. *Aronoff v. City of St. Louis*, 327 S.W. 2d 171 (1959).

City may regulate through the use of building codes and provide for their enforcement. *Euge v. Trantina*, 298 F.Supp. 873 (1969).

### *St. Louis City Charter Article XIV*

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**Official printed copies of St. Louis Missouri City Charter may be obtained from the Register's Office at the St. Louis City Hall.**

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## Article XIV

### Art Museum and Zoological Park\*

\* V.A.M.S.:

90.640, 90.650 Zoological parks

Section 1 Authorized.

Provisions may be made in accordance with law or ordinance for a City Art Museum and a Zoological Park.

History:

Submission Ordinance No. 49101

Submission Ordinance Approved August 9, 1958.

Amendment Substance: repealing Article XIV, containing provisions for a Mullanphy (traveler's aid charity) Fund; a Complaint Board to hear complaints against any part of the City; and a parole and probation board, Board of Children's Guardians, City Art Museum, and a Zoological Park; and enacting a new Section 1 (only) making provision for a City Art Museum and a Zoological Park.

Voter Adoption Date: November 4, 1958.

### *St. Louis City Charter Article XV*

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## Article XV

### Department of Finance\*

\* Constitution:

Art. 6 § 23 et seq. Local finances

Art. 10 Taxation

\* City Counselor Ops.: 8201, 10418

History:

Submission Ordinance No. 66330

Submission Ordinance Approved July 23, 2004.

Amendment Substance: restructures city finance offices and functions.

Voter Rejection Date: November 2, 2004.

Section 1 Composition.

The department of finance shall include the office of the comptroller and the assessment, collection, treasury and supply divisions.

History:

Submission Ordinance No. 66330

Submission Ordinance Approved July 23, 2004.

Amendment Substance: restructures city finance offices and functions.

Voter Rejection Date: November 2, 2004.

Section 2 The comptroller.

The comptroller shall have the qualifications and forfeit his office for the cause provided with regard to the mayor; receive a salary of eight thousand dollars per annum; give bond to the city for not less than three hundred thousand dollars, and appoint one deputy comptroller and such other deputies and employees as may be provided by ordinance. The comptroller shall be the head of the department of finance and exercise a general supervision over its divisions, over all the fiscal affairs of the city and over all its property, assets and claims, and the disposition thereof. He shall preserve the credit of the city, and for that purpose, or in case of any extraordinary emergency of any kind, he may, with the approval of the board of estimate and apportionment, and with or without any ordinance or other authority or appropriation therefor, draw warrants on the treasurer or effect temporary loans to pay debts and judgments and other liabilities of the city, or to meet any such emergency, charging such warrants to

any excess balances in appropriations made by the general annual appropriation bill and specifically reporting his action to the board of aldermen at its first meeting thereafter. He shall have a seat and a voice but no vote in the board of aldermen. He shall be the general accountant and auditor of the city and the records in his office shall show the financial operations and condition, property assets, claims and liabilities of the city, all expenditures authorized, and all contracts in which the city is interested. He shall require proper fiscal accounts, records, settlements and reports to be kept, made and rendered to him by the several departments and offices of the city, including the license collector's office so far as consistent with law, and shall control and continually audit the same, and prescribe forms, rules and regulations therefor and require their observance. He shall regulate the making of all requisitions for supplies. Except as by this charter or by law or ordinance otherwise provided he shall prescribe and regulate the manner of paying creditors, officers and employees of the city. He shall audit all pay rolls, accounts and claims against the city, and certify thereon the balance as stated by him and draw his warrant on the treasurer therefor, but no pay roll, account or claim, or any part thereof, except for the preservation of the credit of the city, or in case of extraordinary emergency as hereinbefore provided, shall be audited against the city unless certified by the officer having knowledge of the facts and authorized by law or ordinance, and the amount required for payment of the same appropriated for that purpose by ordinance and in the treasury. He shall see that no contract liability is incurred except for the preservation of the city's credit, or in case of emergency, as hereinbefore provided, without previous authority of law or ordinance. He shall, at least monthly, adjust the settlements of all officers engaged in the collection of the revenue. He may temporarily transfer employees from one division of the department of finance to any other division thereof. He shall have power to administer oaths. He shall receive and preserve in his office all books, vouchers and papers relating to the fiscal affairs of the city. He may destroy any document, books, vouchers, papers or canceled blank forms pertaining to any department, board or office if he, the city counselor, and the head of such department, board or office certify that they are useless and the board of estimate and apportionment so directs. He shall keep a register of all delinquent and special tax bills or other claims of the city in the nature of liens on property and shall release any such bill or claims thereon on proof of payment thereof.

V.A.M.S.:

137.525 Duties of city comptroller in assessment of property

City Counselor Ops.: 7816, 7836, 7893, 7894, 7917, 7920, 7973, 7994, 8010, 8046, 8046a, 8052, 8202, 8265, 8443, 8448, 8522, 8569, 8676, 8711, 8872, 8866, 8978, 8985, 9013, 9050, 9117, 9166, 9220, 9985, 10334, 10493

Cases:

The city may appropriate bonds instead of appropriating money to pay the cost of public works. *Jennings v. Kinsey*, 271 S.W. 786, 308 Mo. 265 (1925).

The comptroller has broad discretionary powers of a quasi-judicial nature, but he does not control the policy-making powers of the civil service commission. *Kirby v. Nolte*, 164 S.W. 2d 1, 349 Mo. 1015 (1942).

The comptroller can disapprove the expenditure of money out of appropriations only on the ground they are unauthorized or manifest an abuse of discretion. *Kirby v. Nolte*, 164 S.W. 2d 1, 349 Mo. 1015 (1942).

St. Louis ordinance establishing convention and tourism bureau was not inherently incompatible with charter requirements pertaining to the appropriation and use of tax monies. *Ruggeri v. City of St. Louis*, 441 S.W. 2d 361 (1969).

Lease agreement executed by city officials without authorization by city did not constitute a legal obligation of the city. *Vigran v. Poelker*, 433 F.Supp. 168 (1977).

Judgment in mandamus compelling comptroller of city to approve and pay certain contracts entered into by the clerk of the circuit court was approved as to the expenditures deemed reasonable by the Judicial Finance Commission and reversed as to the expenditures deemed unreasonable. *Bosley P. Berra*, 688 S.W. 2d 353 (Mo. banc 1985).

History:

Submission Ordinance No. 66330

Submission Ordinance Approved July 23, 2004.

Amendment Substance: restructures city finance offices and functions.

Voter Rejection Date: November 2, 2004.

Section 3 Designation of subordinate to affix comptroller's signature.

Any officer or employee in the comptroller's office may be designated by him to draw warrants upon the treasury with the same effect as if signed by the comptroller, such designation to be in writing, in duplicate, filed with the mayor and in the treasury division; provided, that the mayor may make such designation if the comptroller be absent or disabled and there be no one in his office designated to act. Any such designation may be revoked by the comptroller while acting as such by filing the revocation in duplicate with the mayor and in the treasury division.

History:

Submission Ordinance No. 66330

Submission Ordinance Approved July 23, 2004.

Amendment Substance: restructures city finance offices and functions.

Voter Rejection Date: November 2, 2004.

Section 4 Composition of assessment division.

The assessment division shall consist of the assessor and such deputy assessors and employees as may be provided by ordinance.

Cases:

The tax assessor does not have the power to accept the dedication of a street. *Granite Bituminous Paving Co. v. McManus*, 148 S.W. 621, 244 Mo. 184 (1912).



## Section 5 Assessor.

The assessor shall have the qualifications provided with regard to the mayor; receive a salary of five thousand dollars per annum, and, before entering upon the duties of his office, take an oath similar to that required by law of county assessors. He shall be the head of the assessment division; appoint the deputy assessors and employees in his division; preserve all maps, plats, books and papers belonging to said division; cause all plats to be prepared, altered and corrected as required by law; receive lists, statements or returns of property; and furnish blanks and information to those desiring to appeal to the board of equalization.

### Ops. Atty. Gen.:

Assessment lists and assessment books maintained in office of assessor of City of St. Louis are public records open to public inspection. No. 40, May 13, 1955.

City Counselor Ops.: 9715

### Cases:

The office of assessor is a city office, not a county office. *State v. Schramm*, 199 S.W. 194, 272 Mo. 541 (1917).

Valuation of property by assessor not conclusive on state board of equalization. *Columbia Terminus Co. v. Koein*, 3 S.W. 2d 1021, 319 Mo. 445 (1928).

## Section 6 Deputy assessors.

Each deputy assessor shall take the same oath as the assessor and have the same powers, subject to his control, and shall have been a resident of the city for five years next before appointment.

## Section 7 Bonds to be given state.

The assessor and his deputies before entering upon their duties shall give bond to the state; the assessor for twenty thousand dollars and the deputies each for five thousand dollars, or such other sums as may be fixed by ordinance. Each bond shall be executed in duplicate

and one forwarded to the state auditor, the other deposited with the comptroller.

#### Section 8 Assessments to be made.

The assessor, or his deputies under his direction, shall severally assess all the taxable property, real or personal, within the city in the manner provided by law, and for that purpose the assessor may divide and assign the work or any of it among them. They shall commence their assessment on the first day of June in each year, and complete the same, and the deputies make their final reports thereof to the assessor, on or before the first day of January next following. The assessor shall see that the assessment is made uniform and equal throughout the city.

V.A.M.S.:

92.010 et seq. Generally, taxation in St. Louis and Kansas City  
137.485--137.550 Property Taxes

City Counselor Ops.: 9715

Cases:

The doubling of an assessment may not be done automatically but must be done by the assessor. *State v. Scullin*, 181 S.W. 40, 266 Mo. 319 (1915).

Valuation of property by city assessor not conclusive on state board of equalization. *Columbia Terminus Co. v. Koein*, 3 S.W. 2d 1021, 319 Mo. 445 (1928).

McQuillin:

38.89--38.91 Power to Levy Assessments

#### Section 9 Assessment books.

The assessor shall make up the assessment books in proper alphabetical order from the reports made by the deputy assessors, the lists or statements made of property, his own view, or the best

information he can otherwise obtain, and complete said books on or before the third Monday in March of each year.

#### Section 10 Board of equalization--Members; oath; compensation.

There shall be a board of equalization consisting of the assessor, who shall be its president, and four taxpaying, property-owning citizens resident in the city for ten years next before their appointment, who shall be appointed annually by the mayor on or before the second Monday in March. Each member shall take an oath similar to that required by law of members of county boards of equalization. Their compensation shall be fixed by ordinance.

V.A.M.S.:

138.140--138.180 Board of equalization in St. Louis City

#### Section 11 Powers and duties.

Said board shall have the power and duty to hear complaints and appeals, and to adjust, correct and equalize the valuations and assessments of any taxable property, real or personal, within the city and to assess and equalize the value of any taxable property, real or personal, within the city, and to assess and equalize the value of any taxable property, real or personal, omitted from the assessment books then under examination by them, and to adjust and correct the assessment books accordingly; provided, that if said board proposes to increase any assessment or to assess any such omitted property, it shall give notice of the fact to the person owning or controlling the property affected, his agent or representative, by personal notice, by mail, or by advertisement, specifying when and where a hearing shall be granted.

Cases:

The city board has the power to assess omitted property. *State v. Title Guaranty Trust Co.*, 169 S.W. 28, 261 Mo. 448 (1914).

Valuation of property by city assessor is not conclusive on state board of equalization. *Columbia Terminus Co. v. Koein*, 3 S.W. 2d 1021, 319 Mo. 445 (1928).

Section 12 Notice of availability of assessment books and time of sessions.

When the assessment books are completed the assessor shall give two weeks' notice in at least two daily newspapers that said books are open for inspection and stating when the board of equalization will be in session.

Ops. Atty. Gen.:

Assessment lists and assessment books maintained in office of assessor of City of St. Louis are public records open to public inspection. No. 40, May 13, 1955.

City Counselor Ops.: 8847

Section 13 Meetings; evidence; appeals.

The said board shall meet on or before the third Monday in March, annually, and remain in continuous session for at least three hours in the forenoon and at least three hours in the afternoon of each day, except Sunday, for four weeks and no longer. It shall have power to subpoena witnesses and order the production of books and papers, and any member may administer oaths in relation to any matter within its jurisdiction. It shall hear and determine all appeals summarily, and keep a record of its proceedings, which shall remain in the assessment division.

Cases:

The board of license revision does not have the power to equalize the valuations of merchants' statements. That power would belong to the board of equalization. *State v. Alt*, 123 S.W. 882, 224 Mo. 493 (1909).

An error in stating its source of power in a notice of a proposed increase in assessment does not deprive the board of equalization of jurisdiction. *State v. Board of Equalization*, 165 S.W. 1047, 256 Mo. 455 (1914).

If the board of equalization acts without jurisdiction certiorari is the proper remedy to quash its record and proceedings. *State v. Board of Equalization*, 165 S.W. 1047, 256 Mo. 455 (1914).

#### Section 14 Who may appeal.

Any person may appeal in writing to the board of equalization from the assessment of his property, specifying the matter of which he complains.

#### Section 15 Abstract of books, extension of taxes and issuance of tax bills.

After the assessment books have been corrected, the assessor shall make an abstract thereof showing the amount of the several kinds of property assessed and specifying the amount of value of all taxable property within the city, and certify thereon that the same is a true and correct abstract of all such property in the city so far as he has been able to ascertain. One copy of the abstract, verified by his oath, shall be delivered on or before the fourth Monday in May to the mayor, and another to the state auditor. The assessor shall extend in said assessment books the state, school and city taxes and include in said books such matter as the law shall provide or the comptroller require. The assessor shall then cause tax bills to be made out for such taxes in such forms as the law shall provide or the comptroller prescribe, and deliver them with a duplicate schedule thereof to the comptroller, who shall compare said bills with said books and schedule and test the footings, and then officially stamp said bills and deliver them with one schedule to the collector and take his separate receipts; one for the aggregate of said bills, and another for the state taxes, which last receipt the comptroller shall transmit to the state auditor.

#### Section 16 Erroneous assessments; duties of comptroller as to taxes.

The comptroller shall hear and determine all complaints of manifest error in the assessment of property for taxes, and in all cases when it shall appear that any property, real or personal, has been erroneously assessed, cause the same to be corrected on the assessment books, and certify to the state auditor all such corrections for credit to the collector. The comptroller shall perform all duties and acts within the city, in regard to the "land delinquent list" the "sale of land for taxes," and the assessment books and tax bills that are imposed on county courts by general law; and make out the "back tax books" and the "back tax bills" required by law.

City Counselor Ops.: 7630

Section 17 Payment of expenses of assessment.

The costs and expenses of the assessment for each year shall be paid by the city. The comptroller shall, as soon as the amount is ascertained, certify the same to the state auditor and obtain his warrant in favor of the city for one-half thereof as provided by law.

History:

Submission Ordinance No. 66330

Submission Ordinance Approved July 23, 2004.

Amendment Substance: restructures city finance offices and functions.

Voter Rejection Date: November 2, 2004.

Section 18 Abstracts to be delivered by recorder of deeds.

The day after any instrument affecting the title to real estate is filed in the office of the recorder of deeds, the recorder shall deliver to the assessor an abstract thereof and to the board of public service a copy of such abstract. The assessor shall promptly change the plats in his division accordingly.

Section 19 Composition of collection division.

The collection division shall consist of the collector and such deputies and employees as may be provided by ordinance.

V.A.M.S.:

82.610 Assistants, deputies--appointments, terms

82.630 Appointment of additional clerical help.

Section 20 Collector--Qualifications, compensation, powers and duties.

The collector shall have the qualifications provided with regard to the mayor and be the head of the collection division. He shall receive such compensation as may be provided by law or ordinance. He shall collect all state, city and school taxes, wharfage, water rates and dramshop licenses, and may collect special assessments, and, unless otherwise provided by ordinance, all indebtedness and claims due the city, and daily pay the same to the city treasurer, except the state taxes, which shall be paid by him as provided by law, and except the school taxes, which shall be paid by him to the board of education of the city monthly, or oftener when required in writing by the treasurer of said board. He shall collect license taxes as permitted by law. He shall appoint the deputies and employees in his division. Each deputy shall have all the powers of the collector, subject to his control.

V.A.M.S.:

82.600 Collector of revenue in constitutional charter cities

City Counselor Ops.: 7933, 8222, 9691, 10208

McQuillin:

44.132 Tax Collectors

Section 21 Bond.

The collector, before entering upon the duties of his office, shall give bond to the state, as required by law, and to the city, as may be required by ordinance. Said bond to the state shall be executed in duplicate and one filed with the comptroller and the other with the state auditor.

V.A.M.S.:

52.020 Bond--deposits of collections

Section 22 Enforcement of payment of taxes.

The payment of all city and school taxes may be enforced in like manner as may be provided by law for enforcing the payment of state taxes.

## Section 23 Composition of treasury division.

The treasury division shall consist of the treasurer, and such deputies and employees as may be provided by ordinance.

## Section 24 Treasurer.

The treasurer shall have the qualifications provided with regard to the mayor and be the head of the treasury division. He shall receive a salary of five thousand dollars per annum; before entering upon the duties of his office, give bond to the city for at least one hundred thousand dollars; and appoint the deputies and employees in his division. He shall receive and keep the money of the city, and pay out the same on warrants drawn by the comptroller and not otherwise. All money belonging to the city received by any officer or agent thereof shall be deposited daily in the treasury division unless otherwise provided by law or ordinance, and any delinquency in this respect shall be reported promptly by the treasurer to the mayor and to the comptroller. The treasurer shall deliver duplicate receipts for all money received, one to the party paying, the other to the comptroller, stating the source, the amount and to what account credited. The treasurer shall daily report the balance in the treasury to the comptroller and to the mayor.

V.A.M.S.:

82.485 et seq. City treasurer, generally

City Counselor Ops.: 9381, 9691

Cases:

The part of the charter fixing the treasurer's salary is void. *State v. Nolte*, 172 S.W. 2d 854, 351 Mo. 275 (1943).

St. Louis ordinance establishing convention and tourism bureau was not inherently incompatible with charter requirements pertaining to the appropriation and use of tax monies. *Ruggeri v. City of St. Louis*, 441 S.W. 2d 361 (1969).

History:



Submission Ordinance No. 66330

Submission Ordinance Approved July 23, 2004.

Amendment Substance: restructures city finance offices and functions.

Voter Rejection Date: November 2, 2004.

Section 25 Depositories of city funds.

Depositories of the city funds shall be selected and deposits made therein as provided by law or by ordinance recommended by the board of estimate and apportionment.

V.A.M.S.:

95.530 Selection of depository--Bond and sureties

City Counselor Ops.: 10299

Cases:

St. Louis ordinance establishing convention and tourism bureau was not inherently incompatible with charter requirements pertaining to the appropriation and use of tax monies. *Ruggeri v. City of St. Louis*, 441 S.W. 2d 361 (1969).

McQuillin:

39.47 Custody of Funds

39.47a--39.47b Deposit of Funds

History:

Submission Ordinance No. 66330

Submission Ordinance Approved July 23, 2004.

Amendment Substance: restructures city finance offices and functions.

Voter Rejection Date: November 2, 2004.

Section 26 Composition of supply division.

The supply division shall consist of the supply commissioner and such deputies and employees as may be provided by ordinance.

City Counselor Ops.: 8010

Section 27 Supply commissioner.

The supply commissioner shall be the head of the supply division, receive a salary of five thousand dollars per annum, give bond as required by ordinance, and appoint the deputies and employees in his division.

Section 28 Board of standardization.

The comptroller, supply commissioner and president of the board of public service shall personally or by deputy constitute the board of standardization, whose duty it shall be to classify and standardize all supplies and materials purchased by the city or used for municipal purposes and prepare precise specifications for all supplies to be purchased through the supply division. The board may maintain such laboratories or other methods of testing as may be necessary.

City Counselor Ops.: 8684, 8925, 10228, 10506

History:

Submission Ordinance No. 66330

Submission Ordinance Approved July 23, 2004.

Amendment Substance: restructures city finance offices and functions.

Voter Rejection Date: November 2, 2004.

Section 29 How supplies, equipment and materials are leased and purchased.

Supplies, equipment, and materials for all departments, boards or officers, exclusive of material for public work or improvements, shall be purchased or leased only through the Supply Division, according to such standards and specifications, if any, adopted or prepared by the Board of Standardization, and by advertising for proposals therefore. Bids may be for one or more or all the articles advertised for, but there shall be a specific bid on each article. The award may be made to the lowest bidder for any article or to the lowest bidder for the entire requisition or any part thereof; but the Board of Standardization may reject any or all bids or any part of any bid. The Supply Commissioner may contract for supplies, equipment and material in any amounts or for any periods as may be approved by the Board of Standardization, and subject to the provisions of this Charter. In cases of emergency, to be determined by said board, purchases or leases may be made without advertising. Purchases or leases in amounts not exceeding five thousand dollars (\$5,000.00) under any one contract may be also made, with the written approval of the Comptroller, without advertising, after securing competitive bids, but there shall be no division of requisitions or contracts for the purpose of securing this privilege. The Supply Commissioner shall inspect and receipt for all supplies, equipment and material.

Supplies, equipment or material shall not be ordered or contracted for by the Supply Division unless the Comptroller shall certify that a fund is applicable for payment thereof.

City Counselor Ops.: 7768, 8010, 8064, 8077, 8196, 8684, 8925, 9007, 9227, 9234, 9347, 9708, 10219, 10228, 10415

History:

Submission Ordinance No. 59773

Submission Ordinance Approved March 5, 1986

Amendment Substance: repeal Ordinance 59581 and enact new Section 29 of Article XV to increase amount of articles which may be purchased from five hundred dollars to seven thousand dollars without written approval of comptroller without advertising after securing competitive bids.

Voter Rejection Date: June, 1986

Submission Ordinance No. 60020

Submission ordinance Approved August 21, 1986

Amendment Substance: repeal Section 29 of Article XV and enact a new Section 29 dealing with the manner and method by which supplies used by the City are purchased, by adding language extending the areas of coverage for the procedures outlined in said Section, and additionally adding the leasing of supplies, equipment, or material to come within the procedures used for purchasing.

Voter Adoption Date: November 11, 1986

Submission Ordinance No. 61917

Submission Ordinance Approved April 12, 1990.

Amendment Substance: amending provisions to increase the amount of articles which may be purchased from \$500.00 to \$2,500 under any one contract, with the written approval of the comptroller, without advertising.

Voter Rejection Date: November 6, 1990.

Submission Ordinance 65711

Amendment substance: to increase amount of articles which may be purchased from five hundred dollars to five thousand dollars with written approval of comptroller without advertising after securing competitive bids.

Voter Adoption Date: April 8, 2003.

Submission Ordinance No. 66330

Submission Ordinance Approved July 23, 2004.

Amendment Substance: restructures city finance offices and functions.

Voter Rejection Date: November 2, 2004.

Section 30 Public printing and publishing.

The supply commissioner shall have general supervision of the public printing and publishing and shall see that it is executed as may be provided by ordinance, letting the contract or contracts to the lowest bidder in conformity with the provisions of this article so far as they may be applicable. Until otherwise provided by ordinance, and except in condemnation proceedings, all newspaper publishing shall be in at least two daily newspapers, one in English and one in the German language. Provisions may be made by ordinance for the city doing its own printing and publishing.

City Counselor Ops.: 9134, 10219, 10472

Cases:

An ordinance is not required to be published in more than one paper, if only one paper does the city publishing. *State v. City of St. Louis*, 5 S.W. 2d 1080, 319 Mo. 497 (1928).

Absent any allegation that a notice was not published in a paper "doing the city publishing" it is presumed that publication was in conformity with this subsection. *Wiget v. City of St. Louis*, 85 S.W. 2d 1038, 337 Mo. 799 (1935).

### *St. Louis City Charter Article XVI*

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## Article XVI

### Board of Estimate and Apportionment\*

\* City Counselor Ops.: 9724

History:

Submission Ordinance No. 66330

Submission Ordinance Approved July 23, 2004.

Amendment Substance: restructures city finance offices and functions.

Voter Rejection Date: November 2, 2004.

Section 1 Composition; records; secretary.

There shall be a board of estimate and apportionment which shall consist of the mayor, comptroller and president of the board of aldermen. It shall keep a record of its proceedings and appoint an employee of the comptroller's office to act as secretary without additional compensation.

City Counselor Ops.: 8071

Cases:

The board is not liable for funds illegally spent since the board merely recommends payment of monies. *Mashak v. Poelker*, 356 S.W. 2d 713 (1962).

Official meetings and votes of the board must be open to the public. *Cohen v. Poelker*, 520 S.W. 2d 50 (1975).

The Board of Estimate and Apportionment of the city of St. Louis is a "public governmental body" within the meaning of the "Sunshine Law." *Cohen v. Poelker*, 520 S.W. 2d 50 (1975).

Board did not have discretion to delete or modify certain items included in circuit court's budget estimates without first obtaining

relief from Judicial Finance Commission. State ex rel. Twenty Second Jud. Circuit v. Jones, 823 S.W. 2d 471 (Mo.banc 1992).

McQuillin:

39.39--39.43 Estimates of Probable Expenditures, or the Budget Law;  
In General

History:

Submission Ordinance No. 66330

Submission Ordinance Approved July 23, 2004.

Amendment Substance: restructures city finance offices and functions.

Voter Rejection Date: November 2, 2004.

Section 2 Statements and estimates to be furnished board.

The head of every department, board or office shall furnish to the board of estimate and apportionment such statements of receipts and expenses and estimates of receipts and requirements of such department, board or office as said board of estimate and apportionment may require.

Cases:

A funding arrangement for the building of a convention center approved by two-thirds of the electorate did not constitute an amendment to this charter section. Wunderlich v. City of St. Louis, 511 S.W. 2d 753 (1974).

Board did not have discretion to delete or modify certain items included in circuit court's budget estimates without first obtaining relief from Judicial Finance Commission. State ex rel. Twenty Second Jud. Circuit v. Jones, 823 S.W. 2d 471 (Mo.banc 1992).

History:

Submission Ordinance No. 66330

Submission Ordinance Approved July 23, 2004.

Amendment Substance: restructures city finance offices and functions.

Voter Rejection Date: November 2, 2004.

Section 3 Annual budget and tax rate.

The Board of Estimate and Apportionment shall submit to the Board of Aldermen on or before sixty (60) days prior to the start of each Fiscal Year for the City of St. Louis a statement showing the estimated receipts and an operating budget for the General Fund and all other operating funds. The budgets shall include a Table of Organization, as well as personnel, supplies, maintenance, repairs, services, and contractual requirements of each department, board, and office for the Fiscal Year beginning on the first day of that Fiscal Year and a comparative statement of the receipts and expenses for the previous year as well as the estimates for the current Fiscal Year, first, however affording taxpayers an opportunity to be heard thereon as may be provided by ordinance.

The Board of Estimate and Apportionment shall also annually and on or before sixty (60) days prior to the start of each Fiscal Year submit and recommend to the Board of Aldermen a proposed ordinance appropriating the amounts deemed necessary for the Table of Organization, as well as the personnel, supplies, maintenance, repairs, services, and contractual requirements for the use of each department, board, and office for that Fiscal Year and a proposed ordinance establishing the City tax rates for said Fiscal Year, provided that the appropriations for payment of salaries and compensation of officers and employees may, in the discretion of the Board of Estimate and Apportionment, be embodied in a separate proposed ordinance. The Board of Aldermen shall immediately proceed to the consideration of said proposed ordinance or ordinances. The Board of Aldermen or one of its Committees shall meet daily Monday through Friday, until the ordinance or ordinances are finally acted upon, and said Board of Aldermen shall finally act upon said proposed ordinance(s) before the start of the Fiscal Year. The Board of Aldermen may reduce the amount of any item in the appropriating proposed ordinance, except amounts fixed by statute or for the payment of principal or interest of



the City debt or for meeting any ordinance obligations, but it may not increase such amount nor insert new items unless specifically approved by the Board of Estimate and Apportionment, or unless the Board of Estimate and Apportionment has failed to recommend the appropriating, City tax rate, and salary compensation proposed ordinance or ordinances on or before sixty (60) days prior to the start of that Fiscal Year.

In the event the Board of Estimate and Apportionment has not recommended said proposed ordinance or ordinances to the Board of Aldermen by or before sixty (60) days prior to the start of the Fiscal Year, the Budget Director for the City of St. Louis shall submit without approval by the Board of Estimate and Apportionment directly to the Board of Aldermen by or before sixty (60) days prior to the beginning of the Fiscal Year an estimate of revenues for the following year and a statement of a Table of Organization and all other expected requirements of each department, board, and office from which the Board of Aldermen shall approve an operating budget through the enactment of an ordinance or ordinances before the start of that Fiscal Year.

Notwithstanding the provisions of Article IV Section 16 of the Charter of the City of St. Louis in the event the Board of Aldermen has not finally acted upon said proposed ordinance or ordinances by the start of the Fiscal Year, the proposed ordinance or ordinances recommended by the Board of Estimate and Apportionment or in its absence the submission by the Budget Director shall be considered to have been approved by the Board of Aldermen.

City Counselor Ops.: 7660, 7727, 8071, 9047, 9761, 10132, 10209, 10224, 10519

Cases:

Ordinance fixing salaries of class of employees was not an appropriation ordinance requiring an estimate by the board. *State v. Miller*, 285 S.W. 504, 315 Mo. 41 (1926); *State v. City of St. Louis*, 204 S.W. 2d 234, 356 Mo. 820 (1947).

Since the board of aldermen may reduce the amount of any item recommended by the board, it may reduce an appropriation once

made. *City of St. Louis v. Smith*, 228 S.W. 2d 780, 360 Mo. 406 (1950).

An ordinance passed for condemnation need not have the recommendation of the board. *City of St. Louis v. Breuer*, 223 S.W. 108 (1920).

A funding arrangement for the building of a convention center approved by two-thirds of the electorate did not constitute an amendment to this charter section. *Wunderlich v. City of St. Louis*, 511 S.W. 2d 753 (1974).

Requirement that board "submit and recommend" proposed budget ordinance sixty days prior to start of fiscal year did not require formal introduction of budget ordinance prior to that date. *State ex rel. Conway v. Villa*, 847 S.W. 2d 881 (Mo. App. E.D. 1993)

History:

Submission Ordinance No. 56786

Submission Ordinance Approved June 27, 1974.

Amendment Substance: repeal Section 3, relating to Board of Estimate and Apportionment and Board of Aldermen daily meetings to adopt an annual budget of the City; enacting a new Section 3 containing the same subject matter except omitting the requirements of daily meetings to adopt an annual budget.

Voter Rejection Date: November 5, 1974.

Submission Ordinance No. 57082

Submission Ordinance Approved December 5, 1975.

Amendment Substance: to repeal Section 3 requirement that Board of Aldermen meet daily while annual budget and appropriation bills are pending.

Voter Adoption Date: August 3, 1976.

Submission Ordinance No. 60198

Submission Ordinance Approved January 30, 1987.

Amendment Substance: repeal Section 3, relating to Board of Estimate and Apportionment's submission to the Board of Aldermen of an annual statement of receipts and requirements of each department, board or office and bills appropriating amounts necessary; enacting a new Section 3 adding specific time requirements before the start of the fiscal year for certain actions by the Board of Estimate and Apportionment and the Board of Aldermen; providing that the Board of Aldermen or a committee shall meet daily Monday through Friday; providing for increase of amounts and insertion of new items by the Board of Aldermen if the Board of Estimate and Apportionment fails to make timely recommendations; providing if the Board of Aldermen has not finally timely acted before the start of a fiscal year, then the submission of the Budget Director shall be considered an ordinance approved by the Board of Aldermen.

Voter Adoption Date: April 7, 1987.

Submission Ordinance No. 66330

Submission Ordinance Approved July 23, 2004.

Amendment Substance: restructures city finance offices and functions.

Voter Rejection Date: November 2, 2004.

Section 4 How appropriations to be set up.

All appropriations shall be specific and in detail and be segregated according to the functions or kinds of work for which the money is appropriated.

City Counselor Ops.: 7928, 10224

Section 5 Limitations on appropriations.

Except in the general appropriation bill and bills providing for the payment of the principal or interest of the public debt, no appropriation shall be made from any revenue fund in excess of the amount standing to the credit of such fund, and no appropriation

shall be made from any fund for any purpose to which the money therein is not lawfully applicable.

City Counselor Ops.: 10224

Section 6 Disposition of unappropriated revenue and transfer of appropriated funds.

Any accruing, unappropriated city revenue may be appropriated from time to time by ordinance recommended by the board of estimate and apportionment; and whenever an appropriation exceeds the amount required for the purpose for which it has been made, the excess or any portion or portions thereof may by ordinance recommended by the board of estimate and apportionment be appropriated to any other purpose or purposes.

City Counselor Ops.: 7928, 10224

Section 7 Reversion of unexpended appropriations.

All unexpended appropriated money, not appropriated by special ordinance for a specific purpose, shall at the end of the current fiscal year revert to the fund or funds from which the appropriation was made.

City Counselor Ops.: 7850, 7928, 9761, 10224

Cases:

Since there is a minimum appropriation for the department of personnel, the unused portion of that minimum does not revert back. Kirby v. Nolte, 164 S.W. 2d 1, 349 Mo. 1015 (1942).

Section 8 Fiscal year.

A fiscal year as mentioned in this charter shall commence on the second Tuesday in April of each year, or at such other time as may be provided by ordinance recommended by the board of estimate and apportionment.

McQuillin:

39.38 Fiscal Year

Set by ordinance: 5.14.020

## *St. Louis City Charter Article XVII*

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## Article XVII City Bonds\*

\* Constitution:

Article 6 § 26(a) et seq. Limitations on indebtedness of local governments

V.A.M.S.:

95.115 et seq. Financial administration--indebtedness

City Counselor Ops.: 8080

McQuillin:

Ch. 43 Municipal Bonds

Section 1 Purposes for which bonds may be issued.

Some of the purposes, hereby specifically authorized, for which the bonds of the city may be issued and given, sold, pledged or disposed of on the credit of the city or solely upon the credit of specific property owned by the city or solely upon the credit of income derived from any

property used in connection with any public utility owned or operated by the city or upon any two or more such credits, are the following: For the acquiring of land; for the purchase, construction, reconstruction or extension of water works, public sewers, buildings for the fire department, bridges and viaducts, subways, tunnels, railroads, street railroads, terminals, ferries, docks, wharves, warehouses, gas or electric light works, power plants, telephone and telegraph systems, or any other public utility; for hospitals, insane asylums, orphan asylums, poorhouses, industrial schools, jails, workhouses, and other charitable, corrective and penal institutions; for court houses, and other public buildings, public parks, parkways, boulevards, grounds, squares, river and other public improvements which the city may be authorized or permitted to make; for paying, refunding or renewing any bonded indebtedness of the city, and for the establishment of a local improvement fund to be used for the purpose of paying in cash for local improvements, such fund to be replenished from time to time by the payment into it of the proceeds of special assessments made on account of such local improvements. The foregoing enumeration shall not be construed to limit any general provision of this charter authorizing the city to borrow money or issue and dispose of bonds, and such general provisions shall be construed according to the full force and effect of their language as if no specific purposes had been mentioned; and the authority to issue bonds for any of the purposes aforesaid is cumulative and shall not be construed to impair any authority to make any public improvements under any provisions of this charter or of any law.

City Counselor Ops.: 7686, 8023, 8207

Cases:

Bonds may be issued for the public purposes of building a civic auditorium. *Halbruegger v. City of St. Louis*, 262 S.W. 379, 302 Mo. 573 (1924).

Bonds may be issued for the public purpose of building a municipal airport. *Dysart v. City of St. Louis*, 11 S.W. 2d 1045, 321 Mo. 514 (1928).

The city may issue bonds to provide welfare to able-bodied men unable to obtain jobs due to economic conditions. *Jennings v. City of St. Louis*, 58 S.W. 2d 979, 332 Mo. 173 (1933).

The enumeration made in this section does not impair the ability to make other improvements. *Petition of City of St. Louis*, 266 S.W. 2d 753, 364 Mo. 700 (1954).

History:

Submission Ordinance No. 35368

Submission Ordinance Approved November 24, 1926.

Amendment Substance: amending Section 1 relating to general obligation or revenue bonds, purposes and uses.

Voter Adoption Date: April 5, 1927.

Section 2 How payment to be made.

Bonds may be so issued as to be payable serially or subject to call.

City Counselor Ops.: 8207, 8830

Section 3 Elections authorizing issues.

No bonds of the city, except bonds for paying, refunding or renewing bonded indebtedness, and except bonds payable only from proceeds of special assessments for local improvements, shall be issued without the assent of two-thirds of the voters of the city voting at an election to be held for that purpose. All forms, proceedings and other matters with respect to any such election and the amounts, purposes, issue and disposition of bonds may be prescribed by ordinance recommended by the board of estimate and apportionment.

It shall not be necessary in the ordinance calling the election, in the notice of election, in the question submitted, or on the ballot, or in any of the matters preceding the said election, to state the amount of bonds proposed to be issued for each purpose, but it shall be sufficient if the ordinance and notice of election state the total amount of bonds proposed to be voted upon at the said election and in general

language the purpose or purposes for which such total amount of bonds is to be issued, and if two-thirds of the voters of the city voting at such election assent to the issuance of such amount of bonds, then such amount may be issued and such bonds or the proceeds thereof may from time to time, by ordinance recommended by the board of estimate and apportionment, be appropriated in any amount or amounts to the purpose or purposes for which total amount was voted.

V.A.M.S.:

95.145 Election--Notice to be published

City Counselor Ops.: 8207, 8834, 9365, 9451

Cases:

"Appropriate" means to allot or assign, to set apart, or apply to a particular use or purpose. *Jennings v. Kinsey*, 271 S.W. 786, 308 Mo. 265 (1925).

When revenue from the improvement will be used to pay the indebtedness on the bonds, an election is not required. *Petition of City of St. Louis*, 266 S.W. 2d 753, 264 Mo. 700 (1954).

History:

Submission Ordinance No. 66330

Submission Ordinance Approved July 23, 2004.

Amendment Substance: restructures city finance offices and functions.

Voter Rejection Date: November 2, 2004.

Section 4 Annual tax levy; sinking fund.

The board of aldermen shall annually levy a tax which will yield not less than one million two hundred thousand dollars to be used exclusively for the payment of the bonded indebtedness of the city existing on the seventh day of April, 1890, and renewals thereof and



interest thereon. That portion of each such annual tax levy not required for the payment of the interest maturing during the year on said bonded indebtedness and renewal shall be credited to and shall constitute a sinking fund to be used exclusively for the payment of said bonded indebtedness and renewals. Such levy need not be made except for such interest after the amount in such sinking fund is sufficient to pay all such bonded indebtedness and renewals at maturity. The board of aldermen shall annually levy taxes sufficient to meet the sinking fund and interest requirements of each bond issue.

#### Section 5 Payment of "St. Louis Water Bonds."

In addition to the foregoing, until there is a sufficient sum in a sinking fund or funds to pay the "St. Louis Water Bonds" and renewals thereof and applicable thereto, the whole net income from the waterworks in excess of what may be necessary for (1) the ordinary construction, reconstruction, extension, operation and repair of the waterworks and facilities, (2) the interest on said water bonds, and (3) the running expenses of the water division shall be credited to, and with the sinking funds heretofore created therefor constitute, a sinking fund to be used exclusively for the payment of said "St. Louis Water Bonds" and renewals.

#### Section 6 Administration of sinking funds.

The board of estimate and apportionment shall administer all sinking funds and in the course thereof may purchase with any sinking fund, as an investment therefor, bonds of the city, state or United States, preferably city bonds, and may provide for the payment of maturing bonds out of the sinking fund created therefor, and to that end sell bonds held in such sinking fund; provided, that all bonds purchased with the particular sinking fund created therefor shall not be regarded as an investment or be reissued, but shall be canceled. Bonds forming part of any sinking fund and not required to be canceled shall be deposited in a safe deposit vault in the city to which access can be had only by at least two members of the board of estimate and apportionment jointly, one of whom shall be the comptroller. All interest earned on investments or deposits belonging to any sinking fund shall belong to such fund. Whenever the amount in any sinking fund exceeds an amount sufficient to pay all the bonds for which such

fund is created, the board of estimate and apportionment may transfer the excess to other sinking funds.

City Counselor Ops.: 10489

History:

Submission Ordinance No. 66330

Submission Ordinance Approved July 23, 2004.

Amendment Substance: restructures city finance offices and functions.

Voter Rejection Date: November 2, 2004.

Section 7 Warrants for payment of bonded indebtedness.

All warrants for the payment of bonded indebtedness or for disbursements out of any sinking fund shall be approved by the mayor and president of the board of aldermen.

City Counselor Ops.: 9769, 10489

The limitations in this subsection do not prevent the application of a state-established nondiscrimination policy. *City of St. Louis v. Missouri Commission on Human Rights*, 517 S.W. 2d 65 (1974).

History:

Submission Ordinance No. 43548

Submission Ordinance Approved April 8, 1946.

Amendment Substance: by repealing Section 16, and enacting a new §section simplifying language prohibiting political considerations and activities, and broadening section to include prohibitions against discriminations in the classified service based on race, political or religious opinions, affiliations or service.

Voter Adoption date: August 6, 1946.

## Section 17 Political assessments and contributions.

No person in the classified service shall be under any obligation to contribute to any political fund or to render any political service, and no such person shall do so or be removed or otherwise prejudiced for refusing to do so. No person in the city service shall discharge or promote or reduce, or in any manner change the official rank or compensation of any other person in such service, or promise or threaten so to do, for withholding or refusing to make any contribution of money or service or any other valuable thing for any political purpose, or in any other manner, directly or indirectly, use his official authority or influence to compel or induce any other person to pay or render any political assessment, subscription, contribution, or service. Every such person who may have charge or control of any building, office or room occupied for any purpose of the government of the city, is hereby authorized to prohibit the entry of any person, and he shall not knowingly permit the entry of any person, for the purpose of therein making, collecting, receiving, or giving notice of, any political assessment, subscription or contribution; and no person shall enter or remain in any such office, building, or room, or send or direct any letter or other writing thereto, for the purpose of giving notice of, demanding, or collecting a political assessment, subscription, or contribution, nor shall any person therein give notice of, demand, collect, or receive any such assessment, subscription, or contribution; no person shall prepare or make out, or take any part in preparing or making out, any political assessment, subscription, or contribution with the intent that it shall be sent or presented to or collected from any employee in the classified service, and no person shall knowingly send or present any political assessment, subscription, or contribution to, or request its payment of, any such employe.

City Counselor Ops.: 8236, 8426

Cases:

The application of the restrictions in this section to classified employees only does not violate the equal protection clause since it serves the legitimate goal of increasing efficiency in public service. *State v. Kirby*, 163 S.W. 2d 990, 349 Mo. 988 (1942).

Section 18 Promises of official influence to affect political action.

No person, while holding any city office, or while in nomination or seeking nomination to appointment to any such office, shall corruptly use or promise to use, directly or indirectly, any official authority or influence, possessed or anticipated, to confer upon any person, or to secure or aid any person in securing, any office or public employment, or any nomination, confirmation, promotion, or increase of salary, upon the consideration or condition that the vote or political influence or action of any person shall be given or used in behalf of any candidate, officer, or party, or upon any other corrupt condition or consideration. No person, being an officer of the city, or having or claiming any such authority or influence, in relation to the nomination, employment, confirmation, promotion, removal or increase or decrease of salary, of any employe, shall corruptly use, or promise or threaten to use, any such authority or influence, directly or indirectly, to coerce or persuade the vote or political action of any person, or the removal, discharge, or promotion of any employee of the city.

City Counselor Ops.: 8426, 10095

Section 19 Political activity of classified employes.

No person holding a position in the classified service shall use his official authority or influence to coerce the political action of any person or body, or to interfere with any election, or shall take an active part in a political campaign, or shall seek or accept nomination, election, or appointment as an officer of a political club or organization, or serve as a member of a committee of any such club or organization, or circulate or seek signatures to any petition provided for by any primary or election law, or act as a worker at the polls, or distribute badges, color, or indicia favoring or opposing a candidate for election or nomination to a public office, whether federal, state, county, or municipal. But nothing in this section shall be construed to prohibit or prevent any such person from becoming or continuing to be a member of a political club or organization or from attendance upon political meetings, from enjoying entire freedom from all interference in casting his vote, from expressing privately his opinions on all political questions, or from seeking or accepting election or appointment to public office, provided, however, that no active

campaign for election shall be conducted by any employee unless he shall first resign from his position.

City Counselor Ops.: 8118, 8426, 8876, 9376, 9825, 10384

Cases:

The application of the restrictions in this section to classified employees only does not violate the equal protection clause since it serves the legitimate goal of increasing efficiency in public service, State F. Kirby, 163 S.W. 2d 990, 349 Mo. 988 (1942).

A finding that the city's fire department Battalion Chief violated Section 19 of Amended Article XVIII of the city Charter was unsupported in the absence of any evidence that the Battalion Chief used his authority or influence as Battalion chief to coerce someone to political activity. Blackwell v. City of St. Louis, 726 S.W. 2d 760 (1987).

It is beyond debate that federal, state and local governments may place some restrictions of the political conduct of public employees. The goal is to balance the interest of the employee as a citizen, in exercising first amendment rights, and the interest of the government, as an employer, in promoting the efficiency and impartiality of public services. Blackwell v. City of St. Louis, 726 S.W. 2d 760 (1987).

Section 20 Leave to be granted for purpose of voting.

On any election day which is not a state or national holiday, the offices of the city shall remain open for business. All employees shall be entitled to vote and whenever necessary may be granted not more than four hours' leave with pay for the purpose of voting.

Cases:

For this section to conform with state statutes the words "not more than" have no effect. State v. Kirby, 163 S.W. 2d 990, 349 Mo. 988 (1942).

Section 21 False statements under oath.

No person knowingly and willfully shall make under oath any false statement in any application or other statement filed with, or in any proceeding before, the director of personnel, or the civil service commission, or in any investigation conducted by the director or the commission.

#### Section 22 Penalties for violation.

Any person who shall willfully or through culpable negligence violate or conspire to violate any provision of this article or of any ordinance made pursuant theretofore which no other punishment is provided herein, shall be guilty of a misdemeanor, and, upon conviction thereof in any court of competent jurisdiction, shall be punished by a fine of not less than one hundred dollars and not more than five hundred dollars or by imprisonment for not to exceed six months, or both, in the discretion of the court. The conviction of any employee of any such offense shall operate automatically to terminate his service and to vacate his position. Any employee so removed from the service shall not be reinstated, reemployed or reappointed, or in any other manner re-enter the service of the City of St. Louis for a period of five years from the date of such conviction, and the comptroller and any other fiscal officers responsible for payment of any compensation to such person are hereby charged with notice thereof. Nothing in this section shall be construed to supplant or in any way affect any prosecution that may be elected to be initiated under any other provision of law relating to the nonfeasance, malfeasance, or misfeasance of public officers.

#### Cases:

An employee need not be convicted under this section to be validly dismissed. *Fleming v. Holland*, 260 S.W. 2d 840 (1943).

#### Section 23 Compliance with article and civil service rules.

It shall be the duty of all employees to conform to and comply with, and to aid in all proper ways in carrying into effect, the provisions of this article, and the rules and ordinances prescribed thereunder. Whenever the director of personnel shall make any order under the provisions of this article or in accordance with any rules or ordinance thereunder, the employee to whom such order is directed shall

forthwith comply with the terms and provisions thereof, and any failure or neglect on the part of such employee properly to satisfy or meet the requirements of such order without sufficient justification therefor, shall be construed as grounds for his removal, subject to all rights of appeal and review provided by this article or by ordinance or law.

City Counselor Ops.: 8617

Section 24 Legal remedies for payment of unauthorized compensation.

The city counselor, or special counselor designated therefor by the board of aldermen, on complaint of any officer or employee of the city or of any taxpayer, shall prosecute, and of his own motion may prosecute, such action as may be appropriate to restrain the payment of salary or other compensation to any person appointed to or holding any position in violation of any of the provisions of this article or the rules and ordinances thereunder, or to recover any payment so made, and such right shall not be limited or denied by reason of the fact that such position shall have been classified as, or determined to be, not subject to competitive tests. All money recovered in any action brought under the provisions of this section shall, when collected, be paid into the treasury of the city.

Section 25 Investigatory powers of director; payment of witnesses.

In the course of any hearing, investigation, or tests of fitness conducted under the provisions of this article, the director of personnel and any other person authorized by him as his representative for such purposes, shall have power to administer oaths, to subpoena and require the attendance of witnesses within the city and the production by them of books and papers pertinent to any matter of inquiry and to examine such witnesses under oath, in relation to any matter properly involved in such proceeding. For such purposes, the director or his authorized representative may invoke the power of any court of record in the city, or judge thereof, in term time or vacation, to compel the attendance and testifying of witnesses and the production of books and papers in compliance with such subpoenas. All witnesses so subpoenaed, who are not employees of the city, shall be entitled to the same fees as are allowed in civil cases in courts of record, which shall be paid upon vouchers approved by

the director of personnel from the appropriations of the department of personnel on the audit and warrant of the comptroller.

City Counselor Ops.: 9531

History:

Submission Ordinance No. 66330

Submission Ordinance Approved July 23, 2004.

Amendment Substance: restructures city finance offices and functions.

Voter Rejection Date: November 2, 2004.

Section 26 Effect of established titles and rates of pay.

The titles and rates of pay of any positions in the classified service, as set forth in any ordinance or appropriation now or hereafter in effect, shall be deemed to be permissive only, authorizing positions that might properly be designated by such titles and compensated at such rates if so constituted that such titles and rates would apply under the provisions of this article, but not as mandatory in requiring that such titles shall be used to designate such positions to the exclusion of all others or that payments shall be made at such rates, irrespective of the true nature of the positions existing by virtue of such authority and of whether such titles and rates are appropriate to the positions as actually constituted.

Section 27 Partial invalidity of provisions.

If any part of this amendment is held by competent authority to be invalid, every other part thereof not so held, shall continue in full force and effect as though such invalid part had not been included therein.

Section 28 Repeal of inconsistent provisions.

All provisions of the city charter and ordinances and rules thereunder, or parts thereof, inconsistent with this amendment, are hereby repealed.



Cases:

When there has been no repeal in specific terms, a former provision will not be repealed unless the two are irreconcilable. *Simmons v. City of St. Louis*, 264 S.W. 2d 928 (1954).

Section 29 Powers and duties of efficiency board vested in personnel board.

All powers and duties delegated to the efficiency board by this charter which are not specifically repealed by this amendment are preserved in full force and effect to the personnel department.

Section 30 Effective date.

This amendment shall take effect immediately, except that payrolls may be certified and payments be made thereon, under the provisions of previously existing charter provisions, and ordinances and rules, applicable thereto, during such temporary period not to exceed one year as is necessary, in the opinion of the civil service commission, to provide for the director of personnel, the rules, the classification and compensation plans, the ordinances, the allocation of the existing positions to their appropriate classes and the fixing of the rates of compensation thereunder, and the forms and procedures, necessary for full compliance with the provisions of this article.

Cases:

A charter amendment can provide that it shall be effective when adopted. *State v. Kirby*, 163 S.W. 2d 990, 349 Mo. 988 (1942).

As far as the right to appeal to the commission is concerned, the amendment became effective when adopted. *State v. Hertenstein*, 163 S.W. 2d 963, 349 Mo. 1010 (1942).

Section 31 Fire department.

(a) Notwithstanding any other provisions of this charter or ordinances of the City of St. Louis to the contrary or in conflict herewith, the following designated ranks and positions of members and employees of the fire department of the City of St. Louis shall for the purposes of compensating said members and employees of said fire department by

salaries for their duties be equivalent to and correspond with the ranks and positions of officers of the police force of the City of St. Louis hereinafter set forth beside each respectively, and the salaries of said designated ranks and positions of members of the fire department of the City of St. Louis shall from and after the effective date of this section and thereafter not be less than the salaries provided by law for the said equivalent and corresponding ranks and positions of officers of the police force of the City of St. Louis, set forth beside each respectively:

Fire Department Rank or Position	Police Force Rank or Position
Fire Chief	Chief of Police
Deputy Fire Chief	Lieutenant Colonel, other than Assistant Chief of Police
Battalion Fire Chief	Major
Fire Captain	Lieutenant
Fire Equipment Dispatcher III	Lieutenant
Fire Fighter, Fire Equipment Dispatcher I and II and Fire Prevention Inspector who has served more than twenty years in the Fire Department	Patrolman who has served more than twenty years as a patrolman
Fire Fighter, Fire Equipment Dispatcher I and II and Fire Prevention Inspector who has served more than fifteen years in the Fire Department	Patrolman who has served more than fifteen years as a patrolman
Fire Fighter, Fire Equipment Dispatcher I and II and Fire Prevention Inspector who has served more than ten years in the Fire Department	Patrolman who has served more than ten years as a patrolman
Fire Fighter, Fire Equipment	Patrolman who has served more

Dispatcher I and II and Fire Prevention Inspector who has served more than five years in the Fire Department

than five years as a patrolman

Fire Fighter, Fire Equipment Dispatcher I and II and Fire Prevention Inspector who has served more than four years in the Fire Department

Patrolman who has served more than four years as a patrolman

Fire Fighter, Fire Equipment Dispatcher I and II and Fire Prevention Inspector who has served more than three years in the Fire Department

Patrolman who has served more than three years as a patrolman

Fire Fighter, Fire Equipment Dispatcher I and II and Fire Prevention Inspector who has served more than two years in the Fire Department

Patrolman who has served more than two years as a patrolman

Fire Fighter, Fire Equipment Dispatcher I and II and Fire Prevention Inspector who has served more than one year in the Fire Department

Patrolman who has served more than one year as a patrolman

Fire Fighter, Fire Equipment Dispatcher I and II and Fire Prevention Inspector who is serving in his first year in the Fire Department

Patrolman who is beginning his first year as a patrolman

(b) All provisions of the city charter and ordinances and rules thereunder or parts thereof, inconsistent with this amendment are hereby repealed.

City Counselor Ops.: 10346

Cases:

This section is not invalid as an improper delegation of legislative responsibility and does not violate any constitutional requirement relative to separation of powers. *State ex rel. St. Louis Fire Fighters Association Local No. 73 v. Stemmler*, 479 S.W. 2d 456 (1972).

This section, insofar as it prescribes minimum compensation, is self-enforcing. *State ex rel. St. Louis Fire Fighters Association Local No. 73 v. Stemmler*, 479 S.W. 2d 456 (1972).

A proposed amendment to a city charter pursuant to an initiative petition requiring salaries of the city fire department to be not less than salaries received by members of another city's fire department was unconstitutional. *State ex rel. Card v. Kaufman*, 517 S.W. 2d 78 (1974).

Firemen's salaries may be above the maximum set by article VIII of this charter. *Bruce v. Scarce*, 390 F.Supp. 297 (1975).

Only remuneration which is "salary" is within the ambit of the section; other forms of compensation received by members of the police department are not, by virtue of this section, automatically owed to corresponding members of the fire department. *St. Louis Fire Fighters Assoc. v. City of St. Louis*, 637 S.W. 2d 128 (Mo. App. 1982).

An eight percent raise in pay in lieu of compensatory time off or payments for overtime hours for certain ranks of police officers constituted a raise in salary which, by virtue of this section, required an eight percent raise in salary for the corresponding ranks in the fire department. *St. Louis Fire Fighters Assoc. v. City of St. Louis*, 637 S.W. 2d 128 (Mo. App. 1982).

An allowance for policemen who work in nonuniform clothes, a "shift differential" for policemen who work evenings and nights, and additional compensation for policemen who complete accredited college work were not "salary" compensation and were not, by virtue of this section, automatically owed to corresponding members of the fire department. *St. Louis Fire Fighters Assoc. v. City of St. Louis*, 637 S.W. 2d 128 (Mo. App. 1982).

History:

Submission Ordinance No. 55656

Submission Ordinance passed over veto June 26, 1970.

Amendment Substance: amendment of Article XVIII, as amended, by enacting a new Section 31, establishing parity of compensation of City Fire Department salaries with those of the police force of the City; and detailing equivalent ranks of the two services.

Voter Adoption Date: September 15, 1970.

### *St. Louis City Charter Article XIX*

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## Article XIX Franchises\*

\* Cases:

An agreement between the city and a corporation granting the corporation the exclusive use of a municipal dock for a maximum of twenty years was properly termed a lease agreement as distinguished from a franchise and constituted a valid and binding contract. *St. Louis Terminals v. City of St. Louis*, 535 S.W. 2d 593 (1976).

Section 1 Limitations on grant; powers reserved to city; ordinances required; incidental regulations.

All grants or renewals of franchises shall be subject to the right to amend, alter or repeal the same in whole or in part, and to forfeit the same at any time for misuse or nonuse; and subject always to the city's power of taxation and its authority to regulate rates, quality of use, service, and products and methods of conduct and operation;

subject also to the right of the city at the end of ten years after the beginning of operation and at the end of every five-year period thereafter, at its option to be exercised by ordinance, to acquire the plant and property used in the operation of the franchise, upon terms and conditions to be ascertained in the manner provided in the granting or renewing ordinance, but in no event is the franchise itself to enter as an element into such compensation. Upon such acquisition the franchise shall cease. Every such grant shall cease unless construction thereunder is begun within the time specified in the ordinance and completed with reasonable speed, and no grant shall be exclusive or for a longer term than fifty years.

Any ordinance granting or renewing a franchise may also provide for regulating, from time to time, the amount of capitalization, indebtedness and expenditure of the grantee or assignee in operating thereunder. Such ordinance may also provide that the franchise shall be sold at public sale, and nothing in any such ordinance shall prevent the city from acquiring the property of any such utility by condemnation proceedings or in any other lawful way subject to the limitation of time herein provided.

Every grantee of a franchise for any public utility shall keep such reports of its finances and operation as may be prescribed by ordinance, and the city may at any time examine its records and accounts.

No ordinance granting or renewing a franchise shall be adopted until a report thereon in the form in which it is put upon its adoption has been made to the board of aldermen by the board of public service with its recommendations as to the action that should be had thereon, nor until the bill and the report of the board of public service, or a fair summary thereof, shall have been published as provided by ordinance.

No franchise shall be assignable except with the city's approval expressed by ordinance.

V.A.M.S.:

82.230 Regulation of public franchises

City Counselor Ops.: 9884

Cases:

Public utility company must obtain consent to put electric wires over city streets. *Holland Realty and Power Co. v. City of St. Louis*, 221 S.W. 51, 282 Mo. 180 (1920).

Contract for possession and profit of dock constituted a "lease" and not a "franchise." *St. Louis Terminals v. City of St. Louis*, 535 S.W. 2d 593 (1976).

McQuillin:

Ch. 34 Franchises

Section 2 Control of public utilities.

The board of aldermen shall at all times have full power, to be exercised by ordinance, over all public utilities now or hereafter existing in the city, and may regulate the charges for the use, service or product thereof and establish whatever requirements may be necessary to secure efficient use, service or products, and no terms or conditions contained in any grant shall limit or impair this power.

Cases:

This section is inoperative insofar as state statute has provided a uniform system of regulation for public utilities. *State v. Public Service Commission*, 192 S.W. 958, 270 Mo. 429 (1917).

The city cannot enact penal ordinances pertaining to use of public utilities that are under state control. *Ex parte Packman*, 296 S.W. 366, 317 Mo. 732 (1927).

Section 3 Conditions of grant or renewal.

The board of aldermen shall, in the granting or renewal of any franchise as herein provided, prescribe or provide for the character of construction and equipment, the kind and quality of use, service or product to be furnished; the rate to be charged therefor; manner in which the streets, public grounds or other public property shall be

used or occupied; and any other terms and conditions in the interest of the public, including, among others, provision for compensation to the city for the use of such streets, public grounds or property based on a share in the gross or net receipts or on the number of passengers transported or number of cars owned or operated or on any one or more of such bases or any other basis or bases.

#### Section 4 Maintenance of streets by street railroads.

Street railroad companies shall keep the street between the rails and between the tracks and to the extent of at least twelve inches outside of each rail in perfect repair, and as nearly on a level with such rails as practicable, and that portion outside the rails shall be of the same material as the street itself or such other material as may be approved by the board of public service, and give such bond or other security for compliance with the provisions of this section as may be provided by ordinance.

#### Cases:

Street railroad companies are liable to private persons for injuries caused by noncompliance with this subsection. *Asmus v. United Rys. Co. of St. Louis*, 134 S.W. 2d 92, 152 Mo. App. 521 (1911); *Corte v. St. Louis Public Service Company*, 370 S.W. 2d 297 (1963).

Railroad is not responsible for any injury after city took over service even if injury was caused by defect present prior to railroad's abandonment. *Vanaak v. St. Louis Public Service Company*, 358 S.W. 2d 808 (1962).

#### Section 5 Use of tracks of one street railroad by another.

Any street railroad company shall have the right to run its cars over the track of any other street railroad company in whole or in part, upon the payment of just compensation for the use thereof, under such rules and regulations as may be provided by ordinance.

### *St. Louis City Charter Article XX*

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## Article XX Licenses Taxes\*

\* V.A.M.S.:

71.610 et seq. Taxing powers

City Counselor Ops.: 8249, 8646, 9907, 10312

Cases:

A fee of one dollar was a license fee not a license tax. *Ex parte Smith*, 132 S.W. 607, 231 Mo. 111 (1910).

City may require a license tax on motor vehicles but cannot require a display of identification that conflicts with state law. *City of St. Louis v. Williams*, 139 S.W. 340, 235 Mo. 503 (1911).

The city may not tax certain public utilities that are under state control. *Union Electric Light and Power Co. v. City of St. Louis*, 161 S.W. 1166, 253 Mo. 592 (1913).

The part of an ordinance imposing a license tax is separable from the invalid portion specifying tire widths. *City of St. Louis v. St. Louis Transfer Co.*, 165 S.W. 1077, 256 Mo. 476 (1914).

City may validly impose license tax on street railways based upon number of paying passengers. *City of St. Louis v. United Rys. Co. of St. Louis*, 174 S.W. 78, 263 Mo. 387 (1915).

A merchant's license fee cannot be based on sales in interstate commerce. *State v. Chapman*, 300 S.W. 1076, 318 Mo. 99 (1927).

City cannot impose license tax on business that was not specifically mentioned. *Keane v. Strodtman*, 18 S.W. 2d 896, 323 Mo. 161 (1919).

A license tax on slot machines is valid. *Edmonds v. City of St. Louis*, 156 S.W. 2d 619, 348 Mo. 1063 (1941).

The city may impose a license tax on public movers. *Ex parte Lockhart*, 171 S.W. 2d 660, 350 Mo. 1220 (1943).

An "earnings tax" is not a license tax but a type of "income tax" or "excise tax." *Carter Carburetor Corporation v. City of St. Louis*, 203 S.W. 2d 438, 356 Mo. 646 (1947).

City may levy a license tax on taxicabs. *Ex parte Tarling*, 241 S.W. 929 (1922).

The city does not relinquish the right to collect license taxes because it also levies a use tax. *St. Louis v. United Railways Co.*, 210 U.S. 266 (1908).

Since telegraphs are instruments of interstate commerce they are not subject to a license tax. *City of St. Louis v. Western Union Tel Co.*, 39 F. 59 (1889).

This article is broad enough to include gas companies operating as public utilities and ps companies operating as private enterprises. *City of St. Louis v. Mississippi River Fuel Corp.*, 57 F.Supp. 549 (1944).

Ordinance 51288 on the licensing and regulation of wreckers or tow trucks was held to be a valid regulation under the city's police power against the contention that it served more as a revenue tax than a regulatory license, was unnecessary to protect the public health, safety and welfare, established an unreasonable classification, and constituted an impermissible burden on interstate commerce. *Kunz v. City of St. Louis*, 602 S.W. 2d 742 (1980).

McQuillin:

26.32--26.42a Charges, Taxes and Fees

History:

Submission Ordinance No. 49996

Submission Ordinance Approved April 11, 1960.

Amendment Substance: repeal of Article XX and enacting a new Article XX specifying with particularity the subjects of City license taxation (Section 1), making each branch or separate place of doing business taxable (Section 2), and requiring uniformity in taxing of a class (Section 3).

Voter Rejection Date: November 8, 1960.

Submission Ordinance No. 50165

Submission Ordinance Approved January 27, 1961.

Amendment Substance: repeal Article XX and enact a new Article XX specifying with particularity the subjects of City license taxation (Section 1), making each branch or separate place of doing business taxable (Section 2), and requiring uniformity in taxing of a class (Section 3).

Voter Adoption Date: April 4, 1961.

Section 1 Subjects of taxation.

License taxes may be imposed by ordinance upon the following business avocations, pursuits, callings, animals, or things, and upon agents, agencies, brokers, contractors, or subcontractors connected therewith; and upon any sale, rental, leasing, hiring, or services rendered in connection with any of the subjects, objects, or classifications thereof hereinafter enumerated:

Abstractors, certifiers, or guarantors of land titles; accountants; acetylene gas; accounting machines; acides; acoustical supplies; addressing businesses; adjusters of claims; advertising advisors, composers, or writers; advertising of any kind or by any means; aerial surveying; air compressors; air conditioning equipment or systems; aircraft; aircraft transportation; airports or airstations; alleys; aluminum products; ambulances; amusement devices; amusement parks; amusement ticket brokers or sellers; animal shows; antique dealers; appraisers; apron supply; aquariums; architects; arenas;

armature rewinding; art galleries; art glass; artists; asphalt work; assayers; athletic, boxing, sparring, or wrestling exhibitions of contests; auction criers; auctioneers; automobiles; automobile dealers; automobile livery; automobile shows; awnings;

Baby sitter agencies; badminton or tennis courts; bail bondsmen; bankers; banks and bankers; barber or beauty shops; barge lines and terminals; baseball parks; bath houses; battery charging; beds; bees; beer depots or store rooms; beer or wine gardens or taverns; bicycles; billboards or bill posters; billiard or pool tables, or other tables or instruments used for amusement; blacksmith shops; bleaching, cleaning, dyeing, or pressing; blue print or photostat makers; board, livery, or sales stables; boarding, lodging, or rooming houses; boilers; boiler cleaning, inspecting, or setting; bond brokers; bonding or surety companies; books; bookbinding; bookkeeping; bottle exchanges; bottling plants; bowling or ball alleys; brewers or breweries; brickwork; bridges; buffing, grinding, or polishing; building; building, house, or window cleaners; building management, operation, or maintenance; building materials; building or house moving, raising, shoring, or wrecking; buildings, or savings and loan associations; building reports; burial vaults; buses; business machinery; business brokers; butane and butane appliances; buyers' agents or agencies;

Cables; calculating and tabulating machines; cameras; carnivals; carpentry; carpets; carters or draymen; cash registers; caterers; caulking; cement or concrete work; cemeteries; chairs or tables; charity solicitation; chauffeurs; check cashing; check rooms; chemicals; chemists; children's nurseries; chimney cleaning; chiropodists; chiropractors; cigarettes and tobacco of all kinds; circuses; claim agents; clairvoyants; clearing houses; clinics; clothing; coal; coin-operated dispensing machines; cold, garment, household goods, locker, lot, or merchandising storage; collectors of accounts or claims; commission merchants or agents; commodity brokers; compressed air; concerts; confections; contract haulers; contract tailors; contractor's equipment; convalescent or nursing homes; correspondence schools; cosmetics; costumes; cranes; credit associations, bureaus, or agencies; crematories; culverts; curb market merchants; customhouse brokers;

Dairies; dance halls and studios; dealers or distributors of goods, wares, or merchandise; decorating; delivery of goods, baggage, or

parcels; dentists; desiccating; designers; desks; detectives, detective agencies, investigators, or finders of missing persons; development companies; diapers; die cutting; dish washing machines; distillers or distilleries; docks, piers, wharves, or other landing places; dogs; dog kennels; dramshops; dredging; drilling; drivers of motor vehicles; druggists; drummers or salesmen; duplicating and duplicating machines and processes;

Electricity and electric appliances; electric or compressed hammers; electrical transcription; electrical work; electrologists; electronics; electronic equipment; electroplating; embossing; enameling elevators; embalmers; employment agencies; engines; engineers, when not covered by State license; engravers; escrow service in land transfers; excavating; excursion boats; exhibitions; exporters or importers; express companies;

Fans; farmers' markets; feather renovating; feed brokers; ferries or other boats; fertilizers; filling or service stations; film developing; filters; finance or loan companies; financial brokers; financing; firearms; fire escapes; fire or burglar alarm systems; florists; floor refinishing or maintenance; floor surfacing machines; flooring; fluorescent lighting maintenance; food markets; food processors; food product brokers or peddlers; foundations; freight or other forwarders; freight transfer, or other warehousing; fruit brokers or peddlers; fumigators; funeral directors; furnaces; furniture; furniture refinishing; furriers;

Galvanizing; garages, garbage removers; gas and gas appliances; gasoline; gauges; gaugers; geologists; gift, premium, or trading stamp enterprises; gold refiners, or goldsmiths or silversmiths; golf courses, driving ranges, and any other golf enterprises; grading; grain brokers; grain elevators; grinding or sharpening; gunsmiths; guttering or spouting; gymnasiums, health institutes, or reducing parlors;

Halls; hardware; hauling; hawkers; hucksters, or peddlers; heating; hoisting; home building; horses; horse shoers; hospitals, sanatoriums, or sanitariums; hotels; hotel or restaurant equipment;

Ice; incinerators; income or other tax returns or tax services; industrial, professional, and technical instruments; information or inspection bureaus; inspectors; installation, with or without sale;

insurance companies; insurance inspection bureaus; insurance, railroad and other rating bureaus; inter-communicating systems; interpreters; investment brokers; investment or trust companies; itinerant vendors, traveling, or auction stores; itinerant wholesale produce dealers;

Janitor service; jewelry; job wagons; jobbers; junk dealers, merchants, or peddlers;

Kalsomining; kitchen equipment;

Labor or public relations counselors; laboratories; laboratory equipment; lamps; landscaping; land clearing; lathing; laundries, and self-service laundries; lawnmowers; leather goods; lenders on chattel mortgages; lifting jacks; lightning rods; linen supply; linoleum laying; linotyping; liquor; liquor dealers, wholesale or retail; lithographers; loan brokers; locksmith; lumber; lumber measurers; lunch stands, counters, or wagons;

Machine shops; machinery of all kinds; machinery designing; magazines; mail order houses; mailing; manicurists; manufacturing; market places; market research; masseurs; mattress renovators; mausoleums; meat brokers; meat choppers; medical supplies; mercantile agents or agencies; merchandise brokers; merchants; merry-go-rounds; messengers; metal finishing, spraying, or stamping; microfilming; midwives; millwrighting; mimeographing; mining companies; mirror resilvering; money transportation; monuments; motels; moth proofing; motion picture projecting equipment; motors; motor scooters; motor vehicles or parts thereof; motor vehicle oiling, repossessing, steam cleaning, towing, washing, wheel aligning, or wrecks; motorcycles; moving picture exhibitions or shows; moving picture film producers, distributors, exchanges, or rental establishments; multigraphing; multilithing; museums; music arrangers or bureaus; musical instruments;

Natural gas companies; navigation companies or steamboat lines; news agents, dealers, or distributors; news service or bureaus; newspapers, newspaper publishers, agents, dealers, or distributors; nuclear or atomic devices or services; numbering machines; nursery schools; nurseries or nurserymen; nursery stock; nursing service;

Office buildings; office coats, overalls, towels, uniforms, or work clothes supply; office equipment; oil companies; oil cutting or reclaiming; oil, mining, or other stocks; oil or gas burners or stockers; operatic, theatrical, or other performances; opticians; orchestras or bands; organs; ornamental work; oxygen; oxygen tents; optometrists; osteopaths;

Packing or slaughter houses; paint sprayers; painting; paper; paper hanging; parades; parking facilities; parking lots; passenger stations or terminals; patent right brokers; patrol, guard, or watchman services; pattern making; paving; pawnbrokers; payroll service; pension plan services; pest exterminators; pharmaceutical supplies; pharmacists; phonographs; photocopying; photograph finishing; photographers; physical therapy; physicists; pianos; pile driving; pipe bending, cleaning, cutting, or threading; pipe lines; pipes, poles, wires, or conduits of public utility companies; planographers; plants and seeds; plastering; plastics; plating; plumbing or gas fitting; pneumatic tubes; portable saws; postage stamp and coin dealers; poultry shows; power piping; power plants; prefabricated buildings; press clipping bureaus; printing establishments; printing presses; private institutions; processors; produce brokers; propane and propane appliances; public address systems; public amusements and entertainments; public carriers; public garages; public halls; public lecturers; public movers; public scales and weighers; public utilities; public vehicles; publishing companies; pumps; push carts;

Quarries;

Race tracks; radios; radio equipment; radio or television broadcasting stations; railroads; railroad or tank cars; railway traffic; ready-mixed concrete; real estate management; real or personal property; recording equipment; rectifiers; refineries; refrigerating companies; refrigeration or refrigeration systems; rendering plants; rentals; research bureaus; restaurants; rigging; roads; road oiling; roofing; rubber products; rugs; runners;

Safes; safe depositories; salary brokers or buyers; sales counseling; sand blasting; sash metal; sashing; saws; scaffolds; scales; scalp treaters; schools and academies of art, business, dancing, dramatics, expression, language, music, and riding; scrap metal brokers; sellers' agents or agencies; selling or storing gasoline; service cars; service car

drivers; sewers; sewing machines; sheet metal stamping or other work; shippers; shoes; shoe machinery; shoe shining parlors; shooting galleries; sidewalks; sidewalk markets; sightseeing tours; signs; silverware; skating rinks; slicing machines; slot machines; smelters; smoke stacks; soda fountains; soft drinks; solicitors; sport events or exhibitions; sporting good; sprinkler systems; stairs; statisticians; statuary; steam-fitting; steamships; steel brokers; steel erection; steel shearing; stock or merchants' exchanges; stock brokers; stockyards; stokers; stone work; storage houses; store or office fixtures; stoves; streets; street lighting; street railways; street railway cars; street stands; surgical instruments; surveying instruments; surveyors; swimming pools;

Tailors; tanks; tanners; tape machines; tariff bureaus; tattooing; taxicabs; taxicab drivers; taxidermists; technical and trade schools or colleges; television sets or equipment; tents; terrazzo or tile work; textiles; theatre sound equipment; theatrical bookings; therapeutic devices; ticket agents; tile; tin work; tires; toll bridges or viaducts; tools; trailers; trailer or tourist camps or courts; transfer companies; translating services; transportation companies; transportation tickets; travel or traffic bureaus; trenches; trucks; truck terminals; trust companies; tube cleaning or expanding; tuck pointing; turbines; typewriters; typing or secretarial work; typographers or typesetters;

Umbrellas; underwriters; upholsterers; upholstering; ushering;

Vacuum cleaners; vaults; vehicles; vending machines; ventilation; veterinary hospitals; vulcanizing; veterinarians;

Wall paper cleaning; washing machines; watches; watchmen; water coolers; waterproofing; water works; weather stripping; welding; welding equipment; windows; window displays; window equipment; wine manufacturers; wineries; wire products; wood workers; wreckers; and wrought iron.

City Counselor Ops.: 9084, 9686, 10305, 10471

Section 2 Tax on branch establishments.

A separate license tax may be imposed for each place of business conducted or maintained by the same person, firm or corporation.



City Counselor Ops.: 9084

Section 3 Uniform tax for each class.

Any ordinance imposing a license tax may divide and classify any subject of such taxation, and may impose a different tax upon each class, but the tax shall be uniform for each class.

City Counselor Ops.: 9084, 10305

Cases:

The word "uniform" refers to the measure gauge or rate of the tax. 508 Chestnut, Inc. v. City of St. Louis, 389 S.W. 2d 823 (1965).

The words "the same class of subjects" refers to the classification of subjects of taxation for the purposes of the tax. 308 Chestnut, Inc. v. City of St. Louis, 389 S.W. 2d 823 (1965).

City may validly levy a tax on the gross receipts of hotels' and motels' transient business. 508 Chestnut, Inc. v. City of St. Louis, 389 S.W. 2d 823 (1965).

Submission Ordinance No. 38663

Submission Ordinance Approved July 10, 1930.

Amendment Substance: enacting a new Section 18, providing for amendments of condemnation ordinances and proceedings thereon.

Voter Rejection Date: November 4, 1930.

Submission Ordinance No. 38865

Submission Ordinance Approved February 19, 1931.

Amendment Substance: relating to amendments of condemnation ordinances and proceedings thereon.

Voter Rejection Date: April 7, 1931.

Submission Ordinance No. 39898

Submission Ordinance Approved January 30, 1933.

Amendment Substance: Article XXI amended by adding five new sections as:

1A;

17, payment of benefits in installments and anticipation bonds;

18, sale of unpaid judgments for benefit assessments;

19, division of assessments against joint owners; and

20, application of amendment of Article XXI to prior proceedings.

Voter Adoption Date: April 4, 1933.

Section 19 Division of assessment against joint owners.

Whenever title to distinct portions of any lot or parcel of property assessed [for] benefits in accordance herewith, shall vest in different owners, on application in writing of any one or more of such owners, the board of commissioners first having given notice by mail addressed to the owners in fee, if known, of the other portions of said property, at their last known address, shall determine the amount of said assessment chargeable to such distinct portion in accordance with the original assessment; and the parties charged with the collection thereof shall accept payment of said amount with interest due thereon. The lien of the judgment shall then terminate as to such portion, proper entries thereof being made on the records of the court.

History:

Submission Ordinance No. 39898

Submission Ordinance Approved January 30, 1933.

Amendment Substance: Article XXI amended by adding five new sections as:

1A;

- 17, payment of benefits in installments and anticipation bonds;
- 18, sale of unpaid judgments for benefit assessments;
- 19, division of assessments against joint owners; and
- 20, application of amendment of Article XXI to prior proceedings.

Voter Adoption Date: April 4, 1933.

Section 20 Application of amendment to prior proceedings.

That no amendment adopted April 4, 1933, to Article XXI of this charter shall apply to any proceeding instituted prior to that date except as follows: (1) any such proceeding in which commissioners to assess benefits and damages have not been appointed prior to said April 4, 1933, shall be referred to the permanent commission and further proceedings had in accordance with the provisions of this article as amended; (2) the provisions of sections 17 and 18 shall apply to any proceedings at present pending in the circuit court.

History:

Submission Ordinance No. 39898

Submission Ordinance Approved January 30, 1933.

Amendment Substance: Article XXI amended by adding five new sections as:

1A;

- 17, payment of benefits in installments and anticipation bonds;
- 18, sale of unpaid judgments for benefit assessments;
- 19, division of assessments against joint owners; and
- 20, application of amendment of Article XXI to prior proceedings.

Voter Adoption Date: April 4, 1933.

public service may grant permits for the improvement of public highways, streets, boulevards, parkways, alleys and sidewalks by property owners, and such improvement shall conform to the established or proposed grades and to specifications approved by the board. Such permit shall specify that the grantee thereof shall not be entitled to any credit or rebate from tax bills which may be issued for further improvement of the public highway, street, boulevard, parkway, alley and sidewalk, when carried out under the provisions of this charter, on account of any improvements that he may make in pursuance of such permit.

History:

Submission Ordinance No. 35368

Submission Ordinance Approved November 24, 1926.

Amendment Substance: Section 22: private owners of property granted permits for public improvements to conform to City plan and not allowed credit or tax rebates for cost.

Voter Adoption Date: April 5, 1927.

Section 22 Utilization by city of material put into improvement.

Any part of the work or material put into the improvement of a public highway, street, boulevard, parkway, alley or sidewalk, which is usable and conforms to the city's plans for the further improvement of the public highway, street, boulevard, parkway, alley or sidewalk may be used by the city in its further improvement thereof. If such work or material shall have been put into such improvement in pursuance of a permit, as provided in Section Twenty-one hereof, the grantee of such permit, his assigns or successors in title shall not become entitled to any credit or rebate for the use of such work or material in the issuance of special tax bills for the cost of such further improvement.

History:

Submission Ordinance No. 35368

Submission Ordinance Approved November 24, 1926.

Amendment Substance: Section 22 City may use work or materials for public improvements and private permittee or assigns not allowed credit or rebate therefor.

Voter Adoption Date: April 5, 1927.

Section 23 Insufficient and excessive assessments.

The ordinance for any public work or improvement may require the board of public service to levy the special assessment therefor immediately upon such ordinance becoming effective, such assessment to be based on the estimated cost and expenses of such work or improvement; and should any assessment so levied be insufficient to pay the entire cost and expenses of the work or improvement required to be paid for by special assessment, the board of public service shall, on the completion of the work or improvement, levy a supplemental special assessment to pay the deficiency, in the same manner as nearly as may be as in the first special assessment; and should the whole of the original special assessment not be required to pay the cost and expenses of the work or improvement, the excess shall be credited ratably on the special tax bills or refunded to the parties who paid them.

### *St. Louis City Charter Article XXIII*

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### Article XXIII Special Tax Bills\*

\* V.A.M.S.:

Ch. 88 Public works and special assessments therefor

City Counselor Ops.: 8049, 9135

Cases:

Proceedings under this article are in nature of proceedings in rem. Alexander v. Haffner, 20 S.W. 2d 896, 323 Mo. 1197 (1929).

McQuillin:

38.155--38.159 Bonds, Certificates, Warrants or Special Tax Bills

Section 1 Preparation, certification and delivery.

For all special assessments for public work or improvements under this charter and ordinances adopted in pursuance thereof, special tax bills shall be prepared and signed by a person designated by the board of public service by resolution entered on its records and shall be made payable to the parties entitled, either at the collector's office or at some bank or trust company in the city, at the option of the party so entitled. They shall be promptly registered and certified both in the office of said board and of the comptroller by persons designated by said board and by the comptroller respectively to make such registration and certificate, and then delivered by the comptroller to the parties entitled and their receipts taken therefor; and the city shall not be liable in any manner for any work or improvement to be paid for in special tax bills.

City Counselor Ops.: 8713

Cases:

Failure to state the statutory place of payment is a mere technicality and does not invalidate the bill. Granite Bituminous Paving Co. v. McManus, 148 S.W. 621, 2010 Mo. 184 (1912).

The signatures of the comptroller and the president of the board of public service do not validate a special tax bill. The necessary signatures are defined explicitly in this section. Bates v. Comstock Realty Co., 267 S.W. 641, 306 Mo. 312 (1924).

## Section 2 Installments authorized; maturity.

Any special tax bills may be divided, if the ordinance authorizing the particular work or improvement so provides, into any number of equal annual installments, not to exceed ten, whereof the first shall be due upon service of the notice hereinafter provided for or upon a "not found" return by the marshal as hereinafter mentioned, and the other installments successively on the corresponding day of each subsequent year, with interest payable annually on each installment at the rate of six per centum per annum from such notice or "not found" return until maturity or prior payment and at the rate of eight per centum per annum after maturity.

All such special tax bills not payable in installments shall mature upon notice or "not found" return as aforesaid and draw interest at the rate of eight per centum per annum after maturity; provided, that the entire bill or any number of installments may be paid within thirty days after such notice or "not found" return without any interest.

City Counselor Ops.: 8919

Cases:

The interest is computed from the date of maturity of the various installments. *Everymann v. Stevens*, 170 S.W. 330, 185 Mo. App. 168 (1914).

Notice is required to fix the dates of maturity of the several installments. *Bates v. Schwenker*, 3 S.W. 2d 277 (1928).

## Section 3 Service of notice of issuance; return.

The owner of any special tax bill shall serve a written notice of the issuance thereof on the parties named therein, or the city marshal at such owner's request shall serve such notice and make return of such service in the manner provided as to writs of summons in civil causes; and he shall receive therefor the fees then allowed for serving such writs. Such marshal's return shall be conclusive of the facts therein stated, and any person injured by a false return on any such notice shall have his right of action for damages resulting therefrom against the marshal on his official bond.

Cases:

Place of payment need not be stated in the notice. Granite Bituminous Paving Co. v. McManus, 148 S.W. 621, 244 Mo. 184 (1912).

The notice does not have to contain a legal description of the property. Schneider Granite Co. v. Gast Realty and Investment Co., 168 S.W. 687, 259 Mo. 153 (1914).

Unverified statement service is not competent proof. Parker-Washington Co. v. Dodd, 264 S.W. 651, 305 Mo. 171 (1924).

Under this section the court made no error in excluding testimony offered to contradict the return of the marshal. Bambrick Bros. Const. Co. v. McCormick, 137 S.W. 43, 157 Mo. App. 198 (1911).

Section 4 Effect as evidence of liability.

All special tax bills shall be prima facie evidence of what they contain and of their own validity, and no mere informality or clerical mistake in any of the proceedings leading to the issuance of or in any special tax bill shall be a defense thereto; provided that if the work was not done in a good workmanlike manner according to the class of work mentioned in the contract the property charged with the payment of said bill shall be liable only for the value of such work done, and the recovery on the special tax bill shall be reduced accordingly.

City Counselor Ops.: 10118, 10219

Cases:

The matters of which the tax bill is prima facie evidence must be proved aliunde against an owner not named therein. McCormick v. Clopton, 130 S.W. 122, 150 Mo. App. 129 (1910).

Under this section tax bill will be judged valid against claim that assessment was improperly made. Granite Bituminous Paving Co. v. Parkview Realty and Improvement Co., 151 S.W. 487, 168 Mo. App. 498 (1912).

A special tax lien is not prima facie evidence of a lien against the property to a mortgagee not named therein. Granite Bituminous



Paving Co. v. Parkview Realty and Improvement Co., 201 S.W. 933, 199 Mo. A p. 226 (1918).

A petition stating a cause of action on a special tax bill and proof in conformity thereto constitutes a prima facie case. Central Paving and Const. Co. v. Eighth and Morgan G. and F. S., 159 S.W. 2d 604 (1941).

Section 5 Lien; priority; legal remedies for collection.

All special tax bills shall be a first lien on the property charged therewith from the day of issuance thereof; provided, there shall be no priority between special tax bills issued under this charter, regardless of the date of such bills.

The entire bill or any installment thereof, together with interest, may be collected by action in any court of competent jurisdiction; and such action may be brought by attachment when the owner of the land affected is a nonresident of the state or after a "not found" return is made by the city marshal on any such notice, in either which event the suit shall be equivalent to notice and demand of payment.

City Counselor Ops.: 9929

Cases:

The lien of the special tax bill like the lien for general taxes is superior to other encumbrances on the land. Morey Engineering and Const. Co. v. St. Louis A. Ice Rink Co., 146 S.W. 1142, 242 Mo. 241 (1912).

As between two tax bills, the earlier in time has priority over the latter unless otherwise indicated. Parker-Washington Co. v. Corcoran, 129 S.W. 1031, 150 Mo. App. 188 (1910).

The lien of a benefit judgment is a tax lien and governed by the rule of reverse priorities. Stiers v. Vrooman, 115 S.W. 2d 84,234 Mo. App. 161 (1938), City of St. Louis v. Wall, 124 S.W. 2d 616, 235 Mo. App. 9 (1939).

Section 6 Right of acceleration; interest on judgment.

If any installment of any special tax bill or any interest thereon be not paid when due, then all remaining installments, together with interest thereon as aforesaid, shall, at the option of the holder if exercised by suit thereon, immediately become due; and a judgment on such bill shall bear interest at the rate of eight per centum per annum.

#### Section 7 Assignment and change of place of payment.

Special tax bills and the lien thereof may be assigned and the place of payment thereof changed to the office of the collector or to any bank or trust company in the city. But any such assignment or change of place of payment to be valid must be in writing, countersigned by the comptroller or by one of his deputies, acknowledged before an officer authorized to take acknowledgments, and registered in the office of the comptroller.

#### Section 8 Receipt of payments by collector; bills to be marked satisfied; expiration of lien.

It shall be the duty of the collector to receive payment of all special tax bills made payable at his office and thereupon deliver the same receipted; and he shall, upon warrants of the comptroller, pay over all such collections to the parties entitled. The persons paying any such bill shall be entitled to have the same satisfied on the register in the comptroller's office, in whole or in part, as the case may be, immediately on presentation to the comptroller of either the receipted tax bill or a receipt from the collector or the proper bank or trust company showing such payment thereof; and the lien of any bill shall cease and be of no effect against the land charged therewith at the end of two years after the maturity of the bill or the last installment thereof, unless proceedings at law shall then be pending to collect the same, and written notice of the institution thereof setting forth when and in what court such proceedings were brought shall have been filed in the office of the comptroller within ten days after the institution of such suit.

#### Cases:

This section applies to special tax bills issued for improvements and does not apply to special tax bills issued for benefit assessments.

Pleadwell v. Missouri Glass Co., 131 S.W. 941, 151 Mo. App. 51 (1910).

The two-year period not merely bars action but limits the existence of the lien. Granite Bituminous Pav. Co. v. Parkview Realty and I. Co., 201 S.W. 933, 199 Mo. App. 226 (1918).

Section 9 Ordinance ratifying irregularities.

If any ordinance authorizing a public work or improvement or fixing a benefit or taxing district, shall be irregular, defective or invalid by reason of any omission, error or irregularity therein or in the proceedings leading to its adoption, or if for any reason it shall be necessary to the validity of any special assessment, the board of aldermen may, on recommendation of the board of public service, adopt an ordinance ratifying all things done under or in pursuance of the original ordinance, and supplying, correcting and curing all such omissions, errors, defects and irregularities, and making such special assessment valid.

Section 10 New assessment to be made and tax bills issued where original assessment invalid.

Where public work or improvement has been done under an ordinance providing that it should be paid for by special assessment and the whole or part of such special assessment has been adjudged invalid for any reason other than the failure of the contractor to perform his contract, the board of public service shall levy a new assessment and evidence the same by tax bills in the same manner and with like effect as if validly done hereunder in the first instance.

Section 11 Amendment of assessment and tax bills.

Special assessments or tax bills evidencing the same may be amended by the officer or officers authorized at the time to prepare special tax bills or by the courts in proceedings to enforce the same, to correct or supply descriptions, names and other errors, omissions and irregularities on the part of the city, and may be divided by said officer or officers at the request of any of the parties concerned according to divisions of the property made subsequent to the bills being prepared, and without affecting the interest on such amended or divided bill.

Section 12 Additional provisions authorized.

The city by ordinance recommended by the board of public service may, from time to time, make further provision by ordinance, not inconsistent with this charter, for special assessments, the issuance of special tax bills therefor, the collection thereof, and all matters incidental thereto.

City Counselor Ops.: 9929

## *St. Louis City Charter Article XXIV*

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## Article XXIV

### Improvement Bonds and Funds

Section 1 Issuance; source of payment; provisions to be supplied by ordinance.

The board of aldermen, by ordinance recommended by the board of public service, in anticipation of the collection of a special assessment for any public work or improvement, may provide for the issuance of improvement bonds to be delivered to the contractor in payment for so much of the work or improvement as is payable by such special assessment or to be sold by the city and the proceeds paid to the contractor in full for such work and improvement; provided, the city shall not be liable either to pay such bonds or to pay for such part of the work or improvement, but the bonds shall be paid only out of the particular special assessment in anticipation of which they were issued, and no such issue shall be in excess of the cost and expenses or estimated cost and expenses of the work and improvement and the interest on the bonds, which may be treated as a part of such cost,

and all proceeds of said bonds shall be applied in payment of the cost and expenses of such work and improvement.

If the special assessment in anticipation of which such bonds are issued shall be payable in equal annual installments the particular bonds shall be payable serially, each series maturing with approximate regard to the several maturities of such installments; and all such special assessments shall be collected promptly by the city at its expense and applied, whenever sufficient thereto after paying accrued interest on all such issue of bonds, to the redemption of any one or more of such bonds in numerical order at maturity.

The form and denomination of such bonds; the date of maturity or maturities thereof, not to exceed eleven years in any instance; the rate of interest thereon and the date and place of its payment; the price at which they shall be sold, if to be sold; by what officers and in what manner they shall be executed and attested; and the place and method of payment, save only the fund out of which payment shall be made, together with other provisions and regulations concerning such bonds and not inconsistent herewith, shall be prescribed by the ordinance authorizing the particular issue.

McQuillin:

37.193--37.209 Improvement Bonds

Section 2 Appropriations for payment from general revenue.

The board of aldermen, by ordinance recommended by the board of public service, may appropriate out of the general revenue sufficient money to pay, or to provide a fund in advance to pay, such part of any improvement bond issue as the proceeds of special assessments securing same may prove insufficient to pay as they become due, not exceeding ten per centum of the amount of such bond issue, and provide for reimbursement, if possible, out of the proceeds of such special assessments after all such bonds and interest have been fully paid.

City Counselor Ops.: 8106

Section 3 Local improvement fund authorized.

The board of aldermen may, by ordinance recommended by the board of public service, provide for the creation of a local improvement fund out of which the city shall pay in cash, to contractors or otherwise, the cost and expense of local improvements, and for the levy, assessment and collection of special assessments to cover cost and expenses, the proceeds of which assessments shall be paid into such fund or funds.

Cases:

A municipal auditorium is not a local improvement. *City of St. Louis v. Pope*, 126 S.W. 2d 1201, 344 Mo. 479 (1938).

Section 4 Appropriation of fund for payment as work progresses.

For the purpose of anticipating the levy and collection of any special assessment for any public work or improvement, the board of aldermen may, by ordinance recommended by the board of public service, appropriate a fund to pay for the work or improvement as it progresses, and reimburse the city either by the issue and sale of local improvement bonds, as in this article provided, or by the collection of such special assessments.

Cases:

Under this section the city may issue special tax bills payable to itself and property owners still retain the right to defend against the tax bills. *City of St. Louis v. Nicolai*, 13 S.W. 2d 36, 321 Mo. 830 (1928).

Section 5 Special tax bills issued under provisions of this article.

All special assessments contemplated by this article shall be evidenced by special tax bills in accordance with the provisions of article XXIII, so far as applicable, such bills to be made payable to the city, which shall be deemed the owner thereof, at the office of the collector, to whom the comptroller shall deliver the same and take his receipts therefor. The marshal shall serve the notice of the issuance of such bills and make return of such service without receiving any fees therefor.

*St. Louis City Charter Article XXV*

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## Article XXV Miscellaneous Provisions\*

\* City Counselor Ops.: 10291

Section 1 Changes in administrative provisions.

The board of aldermen may by ordinance adopted by vote of two-thirds of all the members, on the recommendation of the board of estimate and apportionment, discontinue any division established by this charter, create new or additional divisions, and determine, combine and distribute the functions and duties of divisions, officers and employes.

City Counselor Ops.: 8199, 8201, 8401, 9658, 9911, 10085

Cases:

The board may not transfer the duties of a city officer to his assistant.  
State v. Reber, 126 S.W. 397, 226 Mo. 226 (1910).

History:

Submission Ordinance No. 66330

Submission Ordinance Approved July 23, 2004.

Amendment Substance: restructures city finance offices and functions.

Voter Rejection Date: November 2, 2004.

Section 2 Taxation of raw materials and finished products, tools and machinery, and sales.

The raw material and finished products of manufacturers in the city, as well as all tools, machinery and appliances used by them and the stock in trade and appliances of merchants in the city, may be taxed as a separate class under the laws of the state and a lower rate may be levied by the city on such property so classified than on real estate and other property, and the city may by ordinance levy a tax upon the sales made by manufacturers and merchants in the city.

Section 3 Assessments for planting shade trees and removal of snow, ice, rubbish and weeds.

The board of aldermen may provide by ordinance for assessing against the abutting property the cost of planting shade trees and of removing from sidewalks accumulations of snow, ice and earth and for assessing against property the cost of cutting and removing therefrom noxious weeds and rubbish.

City Counselor Ops.: 9861

Section 4 Approval of official bonds; faithful performance required.

Unless otherwise provided in this charter all bonds shall be approved as to their sufficiency by the comptroller. The bond of the comptroller as to its sufficiency shall be approved by the mayor. All official bonds shall, among other things, be conditioned for the faithful performance of the duties of the office. For any breach of the condition of any bond, suit may be instituted thereon by the city, or any person or persons in the name of the city, for the use of such person or persons.

City Counselor Ops.: 1019

Section 5 When additional official bond required.

If at any time it appears to the mayor or comptroller that the surety or sureties of any official bond are insufficient, he shall require the officer or employee to give additional bond, and, if such officer or employee fails to give such additional bond within ten days after he shall have been notified, his office shall be vacant.

Section 6 Mayor's contingent fund.



A contingent fund shall be provided by ordinance for the mayor, to be used by him at his discretion, and at the end of his term he shall make a report in general terms to the board of aldermen of the disposition thereof.

Section 7 Construction of title "board of election commissioners."

Any reference in this charter to the board of election commissioners shall be taken to include any board or persons having charge of elections in the city.

Section 8 Appeals by city in judicial proceedings.

The city in taking an appeal in any judicial proceeding shall give bond as required by law, but need not furnish security therefor.

Section 9 Execution of city's contracts.

All contracts relating to city affairs shall be in writing, signed and executed in the name of the city. In cases not otherwise provided by law or ordinance, they shall be made by the comptroller, and in no case by the board of aldermen or any committee thereof. Contracts not made by the comptroller shall be countersigned by him, and all contracts shall be filed and registered by number, date and contents with the register.

City Counselor Ops.: 7825, 8010, 8157A, 8622, 9016, 9844, 9987

Cases:

A contract, not for an emergency, and not complying with the provisions of this section, did not bind the city. *West Virginia Coal Co. v. City of St. Louis*, 25 S.W. 2d 466, 324 Mo. 968 (1930).

The fact that the comptroller must countersign contracts does not give him the right to make contracts. *Kirby v. Nolte*, 164 S.W. 2d 1, 349 Mo. 1015 (1942).

Right to compensation of superintendent of hospital rested upon ordinance, not contract. *McCellan v. City of St. Louis*, 170 S.W. 2d 131 (1943).

City employees lacked standing as taxpayers to challenge the city's actions in contracting out acute care and long term health services where they failed to show that the city's actions would necessarily result in the loss of revenue to the city or in an increased tax burden and where, in fact, the city's actions would save a substantial amount of money in the foreseeable future. *Brock v. City of St. Louis*, 724 S.W. 2d 721 (1987).

Physicians who, having been offered positions as physicians-in-training and who were assured by city officials that if their work was satisfactory they would advance and complete the program, and who were a special class of civil service employees in the classified civil service, did not have a constitutionally protected property interest to continued employment which entitled them to damages against the city when the city closed the medical program due to budget restrictions, financial exigency and other reasons. *Kennedy v. City of St. Louis*, 749 S.W. 2d 427 (Mo. App. 1988).

History:

Submission Ordinance No. 66330

Submission Ordinance Approved July 23, 2004.

Amendment Substance: restructures city finance offices and functions.

Voter Rejection Date: November 2, 2004.

Section 10 City records to be open to mayor, comptroller and board of aldermen.

All books, records and papers in any department, office or division shall be open to the mayor, comptroller or any committee of the board of aldermen.

History:

Submission Ordinance No. 66330

Submission Ordinance Approval July 23, 2004.

Amendment Substance: restructures city finance offices and functions.

Voter Rejection Date: November 2, 2004.

## Section 11 City surveyors.

The mayor may appoint any number of civil engineers as city surveyors for a term of four years, whose duties and powers shall be as provided by law in regard to county surveyors. Each city surveyor shall when appointed give bond to the city for fifteen thousand dollars, conditioned for the faithful performance of his duties. Such bond may be sued upon by any person injured by the official acts of such surveyor.

City Counselor Ops.: 8103

## Section 12 Where city's notices, etc., published.

All publications not otherwise herein provided for shall be published in the paper or papers having the contract to do the city publishing at the time.

## Section 13 City marshal to execute process for boards and officers.

Any board or officer authorized by this charter to subpoena witnesses and order the production of books and papers shall have the services of the city marshal to execute process, and provisions shall be made by ordinance for punishing failure to obey any such subpoena or order.

## Section 14 Maximum work day and minimum wage for mechanics and laborers.

Except in case of emergency, not to exceed eight hours shall constitute a day's work for all mechanics and laborers employed by the city, and not less than the prevailing rate of wages shall be paid.

## Section 15 Construction of word "office."

Where the word "office" is used in this charter to indicate a branch of the city government, it shall be construed to refer to any branch not in or under any department, and shall include the office of the mayor, register, marshal, city court judges and clerk of the city courts.

City Counselor Ops.: 8234, 9120

## Section 16 Construction of words "person" or "persons."

Unless the context indicates a different intent and except when referring to a person holding an office of employment under the city, the words " person" or "persons" in this charter will be construed to include person, firm, corporation, com-pany or association, and the plurals thereof.

Section 17 Ordinances in aid of state law.

The board of aldermen may by ordinance make any provision necessary to carry into execution the laws of the state relating to state, school, city and other revenue, and any power, duty or trust under any of the laws of the state, vested in or imposed upon any body or officer of any county or of this city by the laws of the state may be exercised by such body or officer of the city as may be provided by ordinance consistent with the provisions of this charter.

City Counselor Ops.: 9953

History:

Submission Ordinance No. 66329

Submission Ordinance Approved July 23, 2004.

Amendment Substance: reorganizes certain city offices.

Voter Rejection Date: November 2, 2004.

## *St. Louis City Charter Article XXVI*

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Article XXVI

CITY PARKS PROTECTION\*

\* Editor's Note: Amendment was voter approved to the Charter of the City of St. Louis enacting a new Article XXVI re-quiring voter approval of land transactions concerning City parks.

## Section 1 Real estate for use as a public park.

Any real estate, now or hereafter owned by the City or any agency or instrumentality of the City, which is principally used or held out for use as a public park, shall not be sold, leased, given away or otherwise disposed of, and shall be used only as a public park, nor shall any structure be built in any such park to accommodate activities not customarily associated with park use or outdoor recreation, unless such sale, lease, disposal, gift or structure is approved by a majority of the quali-fied electors voting thereon.

## Section 2 Intention of board of aldermen.

The clerk of the board of aldermen shall certify to the board of election commissioners the intention of board of aldermen to authorize such sale, lease, disposal or change of use, together with the proposed ordinance for that purpose, to the board of election commissioners. Said board of election commissioners shall thereupon provide for submitting said proposed ordi-nance, in its original form, to the voters at the first election at which such submission may lawfully be had, but not less than thirty days after such certification to it by the clerk of the board of aldermen.

## *St. Louis City Charter Schedule*

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## Schedule (Transitional Provisions)

### Section 1 Preservation of status quo.

All ordinances or parts thereof in force when this charter takes effect and not inconsistent therewith shall continue in force until amended or repealed; and all rights, actions, prosecutions and contracts of the city, or for its benefit, all recognizances, bonds, obligations and instruments entered into or executed to the city, all fines, taxes, penalties and forfeitures due or owing to the city, and all writs, prosecutions, actions and causes of action shall be valid and continue unaffected by this charter taking effect.

### Section 2 Ordinances and proceedings as to public works validated.

All ordinances authorizing or contemplating the appropriation or damaging of private property for public use or authorizing public work or improvements in force when this charter takes effect, and all things done thereunder, shall remain valid, and subsequent proceedings thereunder, including those in pending condemnation proceedings, shall be conducted as nearly as practicable in accordance with the provisions of this charter.

### Section 3 Assessment for taxation preserved.

Any assessment for taxation commenced before this charter takes effect shall be availed of and completed by the assessor and his deputies under this charter, and the same and any taxes based thereon shall be valid notwithstanding any change effected by this charter.

### Section 4 New titles to be read for former titles.

Ordinances, or parts thereof, not inconsistent with this charter, referring to any present body, board, officer or employe, shall be construed to refer to the body, board, officer or employee having the same or similar powers or duties under this this charter or ordinances consistent therewith.

Section 5 Ordinances imposing fines validated.

Ordinances authorizing a fine or punishment greater than is permitted by this charter shall continue valid so far as to authorize a fine or punishment not exceeding the limitations of this charter.

Section 6 Legality of action by former boards and officers preserved.

Whenever any approval, order or action by any board or officer, discontinued by this charter, is required by any law or present ordinance as a condition precedent to any payment, commitment to any institution, or other action by any city officer, it shall be sufficient to obtain such approval, order or action from the body, board or officer having the same or similar power in the premises under this charter, and if there be no such board or officer, such approval, order or action may be secured from the mayor until otherwise provided by ordinance.

Section 7 Disposition of records, etc., of former boards and commissions.

It shall be the duty of all boards, commissions and officers whose powers or duties are vested in others by this charter to turn over all books, records, property and funds to such others, and if any board, commission or office be abolished without the duties thereof being vested in others, the incumbents thereof shall turn over all books, records, property and funds to the comptroller.

Section 8 Municipal assembly continued.

The present municipal assembly, with its present officers or such as the respective houses may lawfully choose under the present charter, shall continue until the first Monday in April, 1915, with all the powers and duties given to the board of aldermen by this charter, and subject to its provisions; and until said date the provisions of the present charter with regard to the filling of vacancies in the office of mayor or the temporary performance of the duties of the mayor shall remain in force.

Section 9 Terms of office not saved to be abolished.

All terms of office of present officers and employes, except those terms expressly saved or continued by this charter, are abolished.

#### Section 10 Officers continued in new offices.

The present city officers mentioned in this section shall hold office under this charter and subject to its provisions, as follows: The present mayor, comptroller and city counselor shall hold the like offices; the present police justices and district assessors shall hold office as city court judges and deputy assessors, respectively; the present street, sewer, water, park, health and hospital commissioners, commissioner of supplies, and commissioner of public buildings, and chief of fire department shall hold office, respectively, as heads of the appropriate divisions created by this charter; the present president of the board of assessors, president of the board of public improvements, and inspector of weights and measures, shall hold office as assessor, president of the board of public service, and commissioner of weights and measures, respectively; and all other present incumbents of elective officers made appointive shall hold such appointive offices. Each such present city officer shall continue in the office above provided for him to hold until the end of the term for which he was elected or appointed and until his successor qualifies, with all the powers and duties given by this charter to such office.

#### Section 11 Officers continued in office.

The present jailer and all superintendents of institutions and the superintendent of fire and police telegraph shall continue in office subordinate to the head of the appropriate division and subject to the provisions of this charter.

#### Section 12 Continuance of terms of city surveyors.

The present city surveyors shall continue in office until the end of the terms for which they were respectively appointed.

#### Section 13 Office of auditor abolished.

The office of city auditor, as it at present exists, is abolished, but the present city auditor shall continue in office until the end of the term for which he was elected. In the meantime he and the deputies and



clerks under him shall be part of the comptroller's office and under the control of the comptroller.

#### Section 14 Temporary law department.

The city attorneys' offices as such are abolished, but until the law department is organized in accordance with this charter the city counselor's office and the city attorney's offices shall constitute the law department and be under the control of the city counselor.

#### Section 15 Status of offices created by ordinance.

All persons now occupying positions which are created solely by ordinance not inconsistent with this charter and which are not exempted from the efficiency provisions of this charter, including those mentioned in section 9 of article XVIII, and all persons occupying positions which are so created and which are exempted from said efficiency provisions by subdivisions (d) and (f) of section 3 of article XVIII, shall continue in such positions, each in the appropriate branch of the city government and subordinate to the proper head officer. Where transfers of duties are effected by this charter the mayor may transfer any of said officers and employees to conform thereto. Tenure of office or employment under this section shall be subject to this charter and the ordinances of the city.

Editor's note: Article XVIII of this charter has been amended since the passage of this section.

#### Section 16 Boards, commissions and officers abolished; exceptions.

All present boards, commissions and officers created by charter or ordinance and not provided for or authorized or expressly continued by this charter, are hereby abolished, save only the city plan commission, board of engineers and board of examiners of plumbers, which said commission and boards until abolished by ordinance shall hereafter be appointed by and under the control of the board of public service.

#### Section 17 Renewal and substitution of bonds.

The mayor may, and on the written advice of the city counselor shall, require any renewal or substitution of the official bond or security of any present officer or employee as a condition precedent to such officer or employee continuing in office; and any officer or employee failing to comply with any such requirement within fifteen days after being notified thereof shall thereby forfeit his office. It shall be the duty of the city counselor forthwith on this charter being adopted to examine all official bonds and securities and advise the mayor whether on account of any changes effected by this charter it will be necessary to require such bond or security to be renewed or substituted.

Section 18 Oath of office required of officers continued in office.

Every present city officer or employee who, if appointed or elected, would be required by this charter to take an official oath, shall take, subscribe and file such oath as provided in this charter.

### *St. Louis City Charter Scheme*

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## SCHEME\*

For the Separation and Reorganization of the Governments of the City and County of St. Louis and the Adjustment of Their Relations.

Adoption.

The following scheme for the separation of the governments of St. Louis city and county, the definition of the boundaries of said city as enlarged, the reorganization of the government of said county, and the

adjustment of [the]\*\* relations between said city and county so that they shall hereafter be independent of each other, is hereby adopted as the organic law thereof.

\* Editor's note: The scheme was framed by a board of freeholders pursuant to the provisions of Const. (1875), art. IX, § 20, and was adopted by vote of the people of St. Louis on August 22, 1876. It went into effect on that date.

Consolidation of the City and County of St. Louis is authorized by Const. (1945), art. VI, § 30.

\*\* Editor's note: The word "[the]" appeared in the original as "their."

Section 1 Boundaries of the City of St. Louis; territory of St. Louis County.

The boundaries of the City of St. Louis are hereby enlarged, settled and established as follows:

The corporate limits of the City of St. Louis shall comprise all that district of country situated in the County of St. Louis and State of Missouri, to-wit: Beginning at a point in the middle of the main channel of the Mississippi River and running thence westwardly at right angles to said channel to a point on the west bank of said river two hundred feet south of the center of the mouth of the River des Peres; thence westwardly and parallel to the center of the River des Peres and two hundred feet south thereof to the eastern line of the Lemay Ferry Road; thence westwardly to a point in the west line of said Lemay Ferry Road at its intersection with the center of the Weber Road; thence westwardly along the center of the Weber Road to its intersection of the east line of lot one (1) of the Carondelet commons south of the River des Peres; thence westwardly to the southeast corner of Rudolph Overman's or northeast corner of B. H. Haar's land; thence westwardly to said Haar's northwest corner; thence northwestwardly to a point in the center of the Gravois Road six hundred (600) feet southwardly from the center of the bridge across the River des Peres; thence northwestwardly to the southeast corner of lot thirty-one (31) of the subdivision of the Mackenzie tract in United States survey one thousand, nine hundred, and fifty-three (1,953); thence northwestwardly in continuance of said last-mentioned line to

the southern line of lot twenty-one (21) of the subdivision of the said Mackenzie tract; thence northwestwardly to a point in the southern line of United States survey two thousand and thirty-five, twenty-six (26) chains eastward from the southwest corner of said survey; thence northwardly to a point in the north line of the subdivision of East Laclede six hundred (600) feet west of the McCausland Road; thence northwardly and parallel with the center of the McCausland Road to a point on the Clayton Road six hundred (600) feet west of its intersection with the McCausland road; thence northwardly and parallel with the Skinker Road and six hundred (600) feet west thereof to its intersection with the old Bonhomme Road; thence northeastwardly to the intersection of the center line of McLaran Avenue and Mead Street; thence in a northeastwardly direction to a point in the Bellefontaine Road six hundred (600) feet north of its intersection with the Columbia Bottom Road; thence northwardly and parallel with center line of the Columbia Bottom Road to the northern boundary line of the United States survey number one hundred and fourteen (114); thence eastwardly along said line to the center of the main channel of the Mississippi River; thence with the meanderings of said channel southwardly to the point of beginning; and the residue of what now constitutes the County of St. Louis shall hereafter be called St. Louis County.

City Counselor Ops.: 9427

Section 2 City and county declared separated; authority of county court annulled.

The City of St. Louis as described in the preceding section and the residue of St. Louis County as said county is now constituted by law are hereby declared to be distinct and separate municipalities, and all authority heretofore exercised by the county court of St. Louis County or any officer of said county is hereby forever abrogated and annulled except for the purposes and in cases as hereinafter provided.

Section 3 Election of officers for St. Louis County; judicial and representative districts established; county seat.

At the general election for state and other officers on the Tuesday next following the first Monday in November, 1876, and every two years thereafter, there shall be elected officers for St. Louis County as

follows: A sheriff, who shall be ex-officio collector, coroner, assessor, treasurer; a clerk of the county court, who shall be ex-officio recorder of deeds; they shall hold their offices for the term of two years, and shall perform such duties as are now provided by law for such officers until their successors are duly elected and qualified; also, a public administrator, who shall be elected at said election and every four years thereafter and shall hold office for four years and perform the duties now prescribed by law. There shall also be elected at said election three justices of the county court, who shall constitute the county court of said county, and their powers, duties and terms of office shall be defined and governed by the general law at present applying to other counties in this state. And for that purpose the County of St. Louis as established by this scheme shall be divided into two districts by a line commencing at a point where the Clayton Road intersects the boundary between the City and County of St. Louis as established by this scheme and charter and running thence westwardly with the Clayton Road to the eastern boundary of Bonhomme Township as now established; thence north with the eastern boundary of said township to the Missouri River. So much of said county as lies north and east of said line shall constitute district number one, and so much of said county as lies south and west of said line shall constitute number two. One justice of the county court shall be elected by the qualified voters of each of said districts, and the presiding justice of said county court shall be elected at large by the qualified voters of said county. Said county shall be divided and numbered in the same manner into two representative districts, and until otherwise districted by law one representative in the general assembly of the state shall be elected by the qualified voters of each of said districts. Immediately succeeding the election in November, 1876, and when the result thereof is officially determined as hereinafter provided, the justices of the county court shall meet at James C. Sutton's house, on the Manchester Road, for the purpose of organizing the new government of the county, determining the bonds of the county officers, and making such appointments as may be authorized by law. Said court may determine at what place in said county said court shall meet and the county offices be located until the question of a permanent seat of justice may be determined. And for that purpose the following persons shall be and they are hereby appointed commissioners, to-wit: Robert G. Coleman, William W. Henderson and Thomas J. Sappington, who shall, after the scheme goes into effect,

select a suitable place for the county seat of said county and report such selection to the county court of said county, when it shall be the duty of said court to submit to the qualified voters of said county, at a special election to be ordered by said court, within six months from the filing of said report, the question as to whether the place so selected shall be the place for the permanent seat of justice of said county; and if a majority of the qualified voters of said county voting at said election shall be in favor of said location, then the same shall be and remain the seat of justice or county seat of such county; but if a majority of the qualified voters voting at such election shall be against such location, then the permanent seat of justice shall be established in the manner as at present provided by law in regard to new counties. There shall be elected at said election such justices of the peace and constables for the county as said county may be entitled to under existing laws, who shall hold their offices according to the general provisions of law applying to other counties in this state.

Section 4 Present county court to order election November, 1876; duties and responsibilities of court in connection with separation.

The present county court of St. Louis County shall order and make all necessary arrangements for the general state election in November next, and shall order at the same time the election of the justices and officers for St. Louis County as specified in the preceding section, and the members of the present county court thereof shall continue in authority and in the discharge of their present duties except as herein otherwise provided until the new county government is organized and the proper county officers as provided herein are commissioned and qualified, and thereupon their terms of office and that of clerk of said court shall cease, and the offices of justices of the county court and clerk of the said county court as now established shall be forever abolished; provided that nothing in this section shall relieve said court and its officers and employees from full responsibility for the management and custody of all interests and property of the County of St. Louis as constituted previous to the adoption of this scheme until a formal transfer of the same to the proper authority as herein provided has been effected.

Section 5 Election of sheriff, coroner and public administrator for city; duties and compensation.

It shall be the duty of the mayor of the City of St. Louis to order an election on the same day as the general election in November, 1876, and every two years thereafter, for a sheriff for the City of St. Louis and coroner for said city, who shall be elected by the qualified voters of said city and shall hold their offices for two years and until their successors are duly elected and qualified, and they shall be commissioned by the mayor. A public administrator for said city shall also be elected at the general election aforesaid and every four years thereafter, whose term of office shall be four years and whose duties shall be as provided by law. The official bond of said officers shall be fixed and determined by the municipal assembly in conformity with the constitution and laws, and pending such action the sheriff, coroner and public administrator shall give bond in such amounts as now required of like officers for the present County of St. Louis, with not less than two securities, owners of unencumbered real estate in the City of St. Louis, to be approved by the mayor; and said bonds, when so approved, shall be filed with the register; and said officers shall respectively perform within the city limits such duties as are now provided by law in regard to the sheriff, coroner and public administrator of St. Louis County and shall receive the same compensation allowed said officers of St. Louis County prior to the adoption of this scheme until otherwise provided by law. The coroner shall discharge the duties of sheriff in all cases in which coroners are authorized to discharge those duties by law.

Section 6 City marshal to assume duties of former county marshal.

The marshal of the City of St. Louis, in addition to his other duties, shall assume and discharge all the duties heretofore discharged by the marshal of St. Louis County within the limits of the City of St. Louis; and the present county marshal shall deliver to said city marshal all books, documents and property of every kind in his possession by virtue of said office except such property as may properly belong to the reorganized county government, which shall be delivered to the sheriff of St. Louis County elected in November, 1876.

Section 7 County sheriff ex-officio collector; county clerk ex-officio recorder; present recorder to continue in office; election of city recorder.

The sheriff of St. Louis County, elected as provided in section 3, shall be ex-officio collector of the revenue of said county; and the clerk of said county court shall be ex-officio recorder of deeds for said county; and the present recorder of deeds for St. Louis County shall hereafter be known as recorder of deeds, and shall hold his office for his term as now prescribed by law, until his successor shall be elected and qualified; and at the general election in November, 1878, and every four years thereafter, a city recorder shall be elected by the qualified voters of the City of St. Louis.

#### Section 8 Assessment and collection of taxes under scheme.

The office of the president of the board of assessors is hereby declared a city office, and is placed under the control of the city government, but the president of said board shall cause the books and plats of said office to be divided and such portions thereof as exclusively refer to St. Louis County shall be delivered to the proper officer for the use of said county; but if this can not be done, or can be done only in part, then abstracts shall be made thereof and the cost of same paid out of the city treasury. The present state and county collector shall continue in office until the expiration of his official term, and thereafter his duties shall be discharged by the city collector, and upon this scheme going into operation the said state and county collector shall pay over all collections for city and county taxes levied for general purposes and for licenses collected within the city limits as herein extended and all county taxes for interest and parks to the treasurer of the City of St. Louis; and all collections for county and school taxes on property and licenses, except all county taxes for interest and parks, in St. Louis County he shall pay to the present county treasurer until the treasurer of said county is elected as provided for in section 3; and when that officer has duly qualified the present county treasurer shall pay over to him all such collections for the use of said county, and from and after the time the county treasurer of St. Louis County as constituted by this scheme is elected and qualified and during the continuance in office of said county collector he shall in like manner pay over all revenue collections above mentioned to the city and county treasurers respectively. At the close of his term of office he shall effect a settlement with the city and county authorities, and shall account for all tax bills placed in his possession, and shall turn over all uncollected bills in his possession as follows: To the comptroller all tax bills on property within the city limits as herein established and to



the clerk of the St. Louis county court all tax bills on property outside of city limits. The office of county auditor as it at present exists is abolished, but that officer shall continue in office and be responsible on his bond until all books, documents, moneys and other property in his hands or under his charge by virtue of his office have been properly accounted for and turned over to the parties authorized by law to receive them. The assessment of property for the taxes of the year 1877 in the city as constituted by this scheme shall be made by the president of the board of assessors of the present County of St. Louis in the manner provided by law; said president shall keep a separate set of books for the property in the city as now constituted and for that in the enlarged limits of the city. As soon as the assessment books for the city and for the enlarged limits shall have been completed and corrected as required by law, they shall be turned over by said president with the other books and plats of his office to the proper officer of said city. After the assessment books have been corrected, the president of assessors shall make out a fair copy of the same and shall make an abstract of said books, showing the amounts of the several kinds of property taxed, specifying: First, the amount of all property within the old limits of the City of St. Louis; second, the amount of value of all property within the new or extended limits and outside the old limits and add thereto his certificate that the same contains a true and correct list of all taxable property in the City of St. Louis so far as he has been able to ascertain the same. Said abstract shall be certified by oath and delivered to the mayor of St. Louis on or before the fourth Monday of June, 1877. As soon as the assessor of St. Louis County shall be elected and qualified, the president of the board of assessors shall deliver to the said assessor the books, plats and all papers appertaining to the property of said county as herein provided, and it shall be the duty of the assessor of said county to assess the property of said county in the same manner as now provided by law for other counties of this state.

Cross Reference: See also § 23 of this Scheme.

City Counselor Ops.: 8199, 9691

Section 9 County court to transfer public buildings, moneys, etc., to city; employees to continue; mayor may retain or discharge appointees of court.

It shall be the duty of the present county court of St. Louis County to see that all buildings, money and other property belonging to the county which are placed under the control of the city under the scheme shall be formally and properly transferred. Said court shall cause all records, books, papers, etc., now in the office of said court to be turned over to the register, who shall duly schedule same and report the same for inspection of the mayor. All employees and officers now in the service of the county in connection with public institutions or otherwise under appointment of said court and within the limits of the City of St. Louis as herein established shall continue in the discharge of their duties under the present rules and regulations until notified to the contrary by the mayor of the city, who shall have authority to retain or for unfitness discharge such as he may deem necessary and to fill any vacancies that may occur until the municipal assembly can provide by ordinance for the government of such institutions and regulations of such service.

Section 10 Title to public buildings, parks, etc., transferred to city; assumption of county debt by city.

All the public buildings, institutions, public parks and property of every character and description heretofore owned and controlled by the County of St. Louis within the limits as extended, including the courthouse, the county jail, the insane asylum and the poorhouse, are hereby transferred and made over to the City of St. Louis, and all the right, title and interest of the County of St. Louis in said property and in all public roads and highways within the enlarged limits is hereby vested in the City of St. Louis and divested out of the county; and, in consideration of the city becoming the proprietor of all the county buildings and property within its enlarged limits, the city hereby assumes the whole of the existing county debt and the entire park tax; and the municipal assembly shall, as soon as practicable after the adoption of this scheme and charter, provide by ordinance for the management of the property and public institutions hereby placed under its charge.

Section 11 Municipal assembly to provide for payment of county debt.

The municipal assembly shall from time to time make provision by ordinance for the payment of the county debt, and interest thereon, as the same matures, and in all respects said debt shall be considered a

city debt, and shall be transferred to the books of the city, and embraced in all official statements of its funded liabilities.

Section 12 City officers to qualify under charter; election of municipal assembly; city offices to be filled April, 1877.

Until provision is made by ordinance for carrying out the provisions of the preceding sections, and until the officers provided for under the charter framed and adopted by this board are elected and qualified, and after this scheme and the charter framed hereunder go into operation, the present city officers shall qualify under such charter and perform all duties and exercise the powers of their office under such charter, except as otherwise provided in this scheme and charter, and under the ordinances of the city not inconsistent therewith within the enlarged city limits. For the purpose of electing a municipal assembly under such charter, an election for members of the municipal assembly shall be held at the same time as the general state election to be held in November, 1876, and the term of office of the members of said assembly shall continue for the same time and on the same condition as if the same commenced after the city election in April, 1877, as provided for in such charter; provided, that in case of vacancy in the office of the mayor, the present comptroller of the city shall be authorized to act and shall act as such mayor until such vacancies shall be filled as provided in the charter framed under this scheme; and provided further, that all city officers, except the municipal assembly and such offices whose incumbent are specifically continued in office til the expiration of their term by this scheme and charter, and all appointive offices of the city or of any of its departments, shall be vacant from and after the city election provided for in the charter to be held in April, 1877, and shall be filled by the officers then elected and by appointments by the mayor, and officers then elected as in such charter prescribed.

Section 13 Ascertainment of county's financial condition; settlement of accounts.

A board of finance is hereby created, to consist of the mayor and comptroller of the City of St. Louis and the justices of the county court from the fifth and sixth districts of St. Louis County, whose duty it shall be immediately after this scheme goes into operation to examine and verify the county indebtedness as the same existed at the time

this scheme went into operation on the books of the county as to bonds and all other claims and to ascertain and declare the amount necessary for the payment of the current expenses of the county to such time and to ascertain the balance of cash, after deducting the amount necessary for the payment of such current expenses in the hands of the county treasurer and the source whence derived. And all collections made on account of taxes for interest and the parks and that portion of said balance which was collected for general purposes within the extended city limits shall be paid into the city treasury; and that portion which was collected for general purposes within the County of St. Louis as constituted by this scheme shall be paid into the treasury of said county; and the same course shall be pursued with reference to all moneys coming into the hands of the present county treasurer after this scheme shall go into operation. The term of the present county treasurer shall cease when the treasurer for the County of St. Louis as herein constituted shall have been elected and qualified. The county auditor shall properly account for all school moneys for which he is in any way responsible to the proper authorities, and all tax collections for school purposes made either by the City or County of St. Louis for the present or any other year shall be applied only to the support of public schools. All debts and obligations due or payable or belonging to the present County of St. Louis shall be considered due and payable to the City of St. Louis; and the right to sue for and to adjust and collect same or any part thereof shall be vested in such city. The amount above ascertained for the payment of current expenses shall be paid in the manner provided by law out of the sum above reserved for such purpose.

#### Section 14 Metropolitan police.

The metropolitan police force of the City of St. Louis as now established by law shall be maintained at the cost of the City of St. Louis; provided, however, that the metropolitan police of the City of St. Louis shall have the same power and jurisdiction in the County of St. Louis as constituted by this scheme as now provided by law; provided, that upon a petition of the county court of St. Louis County the board of police commissioners shall appoint and equip not more than twenty policemen as provided in the act approved March 13, 1867, for duty in said county. The cost of equipping and maintaining said police shall be paid by the county as herein established.

Section 15 Justices of the peace and constables; bonds of constables and notaries.

Until otherwise provided by law, all the present justices of the peace and constables shall hold their offices until the expiration of their present terms, and only such justices and constables shall be elected in November, 1876, as may be necessary to fill vacancies. All commissions of justices of the peace and constables elected in the City of St. Louis shall be issued by the mayor, and a record thereof kept by the city register. All bonds of constables and of all notaries public appointed, shall be approved by the mayor, and a record of the same shall be kept in said register's office.

Section 16 City and county surveyors.

The mayor of the City of St. Louis, with the approval of the council, may appoint any number of competent persons, being civil engineers, as city surveyors, whose duties and powers shall be as now provided by law in regard to county surveyors; but all applicants shall produce satisfactory testimonials of good character and competency, and when appointed shall give bond in the sum now required by law from surveyors in St. Louis County, and the county court of St. Louis may appoint county surveyors under the same restrictions. The present county surveyors, commissioned by the county court under an act entitled "An act to amend chapter 27 of the general statutes of Missouri relating to county surveyors," approved March 25, 1872, may continue in authority and in discharge of their present duties in the City and County of St. Louis until the expiration of the commissions held by them respectively, and the said city surveyors shall have the power to execute in the County of St. Louis all orders of the circuit court of the eighth judicial circuit as they were authorized to do before this scheme went into operation.

Cross Reference: In connection with this section, see also § 11, Art. XXV of the Charter.

Section 17 Notaries public.

All notaries public now commissioned by the governor for St. Louis County shall exercise the official powers and duties of such office within the City and County of St. Louis as constituted by this scheme,

and the city register shall keep a complete record of all notaries acting within the City of St. Louis and of their bonds and the date of their commissions and of the expiration thereof.

Section 18 Powers of sheriffs of city and county; duties of city marshal.

The sheriff of the City of St. Louis shall, within the limits of said city, exercise the authority now vested by law in the sheriff of the County of St. Louis, and after this scheme shall go into operation, all writs and other process which are now by law provided to be executed by the sheriff of the County of St. Louis, within the city limits, shall be directed to and executed by the sheriff of the City of St. Louis. The city marshal, after this scheme goes into operation, in addition to the duties now required by law to be performed by him, shall, within the city limits, exercise the same power and perform the same duties as are now provided by law in regard to the county marshal. And the sheriff of St. Louis County shall execute all process directed or delivered to him by any court of record of the County of St. Louis as are now established by law.

Section 19 Judges of election for November, 1876; returns, etc.

The judges of the election for state and other offices to be held in November, 1876, and for officers of the city and county as provided in this scheme shall be appointed as now provided by law, and the same judges shall act in the election for city and county officers at such November election, 1876, and the returns shall be made to the clerk of the present county court, who shall officially certify to the result; and in the event of any neglected or failure on the part of said county court or any officer of the city or county to order and arrange for the election herein provided, the St. Louis court of appeals or any judge thereof may cause the same to be done, and may in such event appoint judges and take all other steps necessary to insure the holding of said election in the manner contemplated herein.

Section 20 Public officers to assist in carrying out scheme.

It shall be the duty of all existing officers of St. Louis City and County to assist in carrying out the provisions of this scheme so far as any official act is necessary for that purpose; and in all cases in which said

officers are continued in office under this scheme their duties and compensation shall be the same as are now provided by law.

Section 21 City may hold real estate in county.

The City of St. Louis may purchase, take and hold real estate in the County of St. Louis for the use of the city.

Section 22 Salaries of judicial officers.

Until otherwise provided by law, the salaries of all judges of courts now paid out of the county treasury and of all judicial officers not affected by the operation of this scheme shall be paid proportionately by the City and County of St. Louis according to the aggregate of taxable values in each; and to carry out this section the municipal assembly shall annually provide for paying such expenses, and it shall be the duty of the county court of said county and a binding obligation thereon to pay into the city treasury annually an amount equal to the proportion of the expenses herein indicated; and the officers of said city may make any temporary arrangement necessary to carry out the provisions of this section until the municipal assembly can regulate the subject by ordinance.

Section 23 Tax bills on property intersected by city limits.

Immediately after this scheme goes into operation, the present state and county collector of revenue shall turn over to the president of the board of assessors all the tax bills then in his hands that apply to lots or parcels of land which shall have become intersected by the new city limits line, for which bills the said president shall return from a detailed receipt, to be held by him (the collector) as his sufficient voucher against the corresponding tax amounts for which he may stand charged; and the said president shall proceed at once to make, in lieu of the bills received, new bills, whereon the amounts of taxes shall be separated in the proportion of quality and value of land or land improvements, respectively lying within and without the newly established city limits, to the end that the taxes distributable to the county and those distributable to the city shall all be represented by separate bills. The new bills thus ordered when completed by the said president, shall be by him delivered to the comptroller to be examined and stamped, and they shall next with the least practicable delay, be

returned by the comptroller to the collector for collection. The old tax bills herein above named shall likewise be by the president surrendered to the comptroller, who shall cancel them.

Cross Reference: See also § 8 of this Scheme.

City Counselor Ops.: 9691

Section 24 Authority of county court conferred on municipal assembly.

The municipal assembly shall have power within the City of St. Louis to do all acts and perform all functions not otherwise provided for in this charter and not inconsistent with its terms which have heretofore been done and performed by the county court of the County of St. Louis.

City Counselor Ops.: 9532, 10307

Section 25 Admission to poorhouse, insane asylum, etc.

Until the County of St. Louis as organized by this scheme shall otherwise provide, the county court thereof shall be authorized to send the paupers of said county to the poorhouse or county farm now in use and the insane paupers of said county to the insane asylum now in use, and for the maintenance of such paupers shall pay to the treasurer of the city the cost of maintaining paupers in those institutions, to be ascertained by the annual reports of the same.

Section 26 Prosecuting attorneys and clerks of eighth judicial district continued in office.

The circuit attorney and assistant circuit attorney for the eighth judicial circuit, the prosecuting attorney, the assistant prosecuting attorney and the clerk of the St. Louis court of criminal correction, and the clerk of the St. Louis criminal court, shall continue to hold their offices and discharge the duties thereof as now provided by law until the expiration of their respective terms of office and until their successors are duly elected and qualified.

Section 27 Grand jurors--How selected and summoned.



After this scheme goes into operation, and until otherwise provided by law, the grand jury of the eighth judicial circuit shall be selected by the judge of the St. Louis criminal court from the City and County of St. Louis and shall be summoned by the marshal of the City of St. Louis.

#### Section 28 Same--How paid.

All members of grand juries selected from the City of St. Louis shall be paid out of the city treasury, and those from the County of St. Louis shall be paid out of the county treasury. All payments shall be upon certificates of the clerk of the St. Louis Criminal Court.

#### Section 29 Costs in criminal cases.

In the criminal cases occurring in the City of St. Louis in which, by the law in force prior to this scheme going into operation, the County of St. Louis was liable to pay such costs, such costs shall, after that time, be paid out of the City treasury, and in like cases occurring in the County of St. Louis, shall be paid out of the treasury of the County of St. Louis.

#### Section 30 Petit jurors--How selected and summoned.

Petit jurors to serve in the circuit court of the eighth judicial circuit, in the St. Louis criminal court, and in the St. Louis court of criminal correction shall, until otherwise provided, be selected and summoned as now provided by law, except that jurors for the said circuit court shall be summoned by the sheriff of the City of St. Louis, and jurors to serve in the said other two courts shall be summoned by the marshal of the City of St. Louis. And the act to provide a jury system in St. Louis county approved March 3, 1857, and the acts mandatory thereof, shall remain in force until altered or repealed, and the present jury commissioner of St. Louis county shall remain in office until the expiration of his official term and perform all the duties now required of him by law.

#### Section 31 Same--How paid.

For all services of petit jurors rendered in the circuit court of the eighth judicial circuit they shall be paid out of the city treasury and

for all such services rendered by citizens of St. Louis and in the St. Louis criminal court and the St. Louis court of criminal correction they shall be paid out of the city treasury and for all such services rendered in the last-mentioned courts by citizens of St. Louis County they shall be paid out of the county treasury.

Section 32 Collections payable into city treasury; payments into county treasury; appropriations by municipal assembly.

In all cases, where, according to the laws in force up to the time when this scheme shall go into operation, any public officer or other person was required to pay any money coming into his hands from any source whatever into the county treasury of St. Louis County, and where it is not otherwise provided in this scheme or the charter framed under it, such officer or person shall, after the time aforesaid, pay all such money into the treasury of the City of St. Louis at or within such times as he was theretofore required to pay the same into the county treasury; and if no time shall be prescribed by law for any such payments, then he shall pay the same monthly on the first Monday of each month, into said city treasury, and shall take triplicate receipts therefor, stating the account on which such payment was made, one of which he shall file in the city auditor's office and one with the comptroller, who shall charge the treasurer with the amount so paid; and the said auditor and treasurer shall keep accounts showing the account on which such payments were made and the source from which the money was derived. All such money shall be applied and used for the purposes for which it was collected or for which it was made applicable by law and in all cases where such money is not set apart or appropriated by law for specific purposes the municipal assembly of the city may appropriate it to such municipal uses as it may deem proper; provided, however, that all fines, penalties and forfeitures collected or accruing in the County of St. Louis or on account of said county or the people thereof shall be paid in the manner and at times aforesaid into the county treasury of said county, and duplicate receipts shall be taken as aforesaid by the officer or person paying the same, one of which he shall file with the county clerk of said county, who shall charge the treasurer with the amount so paid, and such money shall be appropriated and used as it is or may be provided by law; and provided further that if any public officer or other person shall, at the time this scheme goes into operation, be in default in the payment of any such money into the

said county treasury, he shall immediately pay the same into the said city treasury in the manner aforesaid, and the same shall be disposed of as herein provided.

### Section 33 Power of former county collector vested in sheriff of county.

All powers heretofore vested in the collector of the County of St. Louis and all duties required to be performed by him in reference to taxes on property situated outside of the limits of the City of St. Louis as enlarged, and in reference to the sale of such property for taxes and the redemption thereof, shall, after the election and qualification of the sheriff of the County of St. Louis as provided by this scheme, be executed and performed by such sheriff; and all deeds for the sale of land for taxes made by him shall be acknowledged before the clerk of the county court of St. Louis County.

### Section 34 Authority of municipal assembly as to revenue.

The municipal assembly shall have power to enact all ordinances that may be necessary to carry into execution the laws relating to state, county, city and other revenue within the City of St. Louis as enlarged; and such powers as are now vested by law in the county court of St. Louis County or the clerk of said court or the county collector and auditor may be exercised by such tribunals and officers as may be provided by ordinance.

### Section 35 Regulations as to animals running at large.

It shall be unlawful for any domestic animal of the species of horse, cattle, mule, ass, swine, sheep or goat to be suffered to run at large by the owner thereof in the City or County of St. Louis; and if any such animal be found running at large in said city or county after this scheme and charter go into operation; it shall be lawful for any person to take up and restrain the same forthwith; and such person shall, within three days after so taking up and restraining such animal, give notice thereof to the owner, if known, and thereupon such owner shall pay a reasonable compensation for taking up, keeping and feeding such animal, and for damages actually caused by such animal. If the owner be not known, or fails to make such reasonable compensation after being notified, any animal so taken up shall be deemed an estray, and may be proceeded against by the taker up thereof in the

manner provided by law in regards to strays; provided, however, that this section shall not be so construed as to prohibit any person from driving, herding and guarding such stock upon the uninclosed lands belonging to said county, the state or the United States.

#### Section 36 School districts interested by city limits.

In all cases where the limits of the City of St. Louis as herein extended include a part only of any school district, the following shall be the mode of adjustment as to property held by or for the use or benefit of such district: First, where the part of such district included within such extended limits contains any school house or other real estate belonging to the district, the board of president and directors of the St. Louis public schools shall pay into the county treasury of St. Louis County for the use of that part of the district not so included, such proportion of the valuation of said school property as the taxable value of property in the part of such district not so included bears to the taxable value of all property in such district, as constituted before such extension. Second, where the part of such district, not included within such extended limits, contains any schoolhouse or other real estate belonging to the district, the inhabitants of the district not so included shall pay to the board of president and directors of the St. Louis public schools such proportion of the valuation of said school property as the taxable value of property in the part of such district included within the city limit bears to the taxable value of all property in such district, as constituted before such extension. The valuation of school property mentioned in this section shall be made by arbitrators, one of whom shall be selected by the board of president and directors of the St. Louis public schools and one by the directors of the school district affected, who if disagreeing, may select a third; or, if unable to agree on the selection of such third arbitrator, any school director or member of the board of president and directors of the St. Louis public schools may apply to the circuit court of the eighth judicial circuit to appoint one. A report of the valuation made by such arbitrators or a majority thereof shall be filed as soon as practicable in the clerk's office of the circuit court of the eighth judicial circuit. Any money to be paid to the board of president and directors of the St. Louis public schools shall be provided for by the assessment, levy and collection of a special tax on all taxable property within such districts not so included.

### Section 37 School property transferred to St. Louis public schools.

All property, real, personal or mixed, of every kind and description, and the evidence of title thereto, now held by the County of St. Louis or by the county court of St. Louis County in trust or for the use of the inhabitants of township forty-five north of range seven east for school purposes, and all such property, and the evidences of title thereto, held by any public officer for the use of any school district in said township, or held by or for the benefit of any such district, shall, as soon as this scheme goes into effect, pass and be delivered to the board of president and directors of the St. Louis public schools; and the title to any and all such property shall by operation hereof vest in said board.

### Section 38 Enumeration of children within school age; division of school property.

The board of president and directors of the St. Louis public schools shall forthwith after this scheme goes into effect cause an enumeration to be taken of all children within school ages within the limits of the City of St. Louis as herein established and the county court of St. Louis County shall cause forthwith a similar enumeration to be taken within the County of St. Louis outside the city limits as herein established, showing the enumeration in each school district and fractional school district separately, a correct report of which enumeration shall be filed by said board and said court, respectively, the clerk's office of the circuit court of the eighth judicial circuit within sixty days after this scheme and charter go into operation. So much of all property of every nature whatsoever and the evidence thereof belonging to the school fund of St. Louis County, or of congressional townships affected by the extension of the present city limits as, according to such enumeration, falls to the share of the district lying within the limits of the City of St. Louis shall at once pass and be delivered by the county court of St. Louis County, or public officers in charge thereof, to the board of president and directors of the St. Louis public schools, and the residue of all said property and the evidences thereof shall pass and be delivered by the present county court of St. Louis County, or public officers in charge thereof, to the proper authorities of the County of St. Louis as constituted by this scheme. From and after the date this scheme goes into operation all public officers within the City of St. Louis shall account for and pay over to

the board of president and directors of the St. Louis public schools all fines and penalties and other moneys collected within said city and heretofore payable into and forming part of the county school fund of St. Louis County.

#### Section 39 Expenses of board of freeholders.

All claims for the printing, clerk hire and other expenses of this board of freeholders shall be made and certified to by the president of the board immediately after the adjournment of this board, and such claims, so certified, shall, as soon as this scheme and the charter framed thereunder are adopted, be paid by the treasurer of the present County of St. Louis out of the general revenue of said county, and such payments shall be allowed to said treasurer in the settlement of his accounts as provided for in this scheme.