

1 **BOARD BILL NO. 168**

Introduced by Alderman Craig Schmid

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3 An ordinance relating to public records; establishing city policy regarding records

4 pursuant to chapter 610 of the Missouri statutes, including designating custodians of

5 record and establishing closed records.

6 WHEREAS, SECTION 610.023.1, RSMo, provides that a public governmental body is to

7 appoint a custodian to maintain that body's records and the identity and location of the

8 custodian is to be made available upon request; and

9 WHEREAS, SECTION 610.026, RSMo, sets forth that a public governmental body shall

10 provide access to and, upon request, furnish copies of public records; and

11 WHEREAS, SECTION 610.028.2, RSMo, provides that a public governmental body

12 shall provide a reasonable written policy in compliance with sections 610.010 to 610.030,

13 RSMo, commonly referred to as the Sunshine Law, regarding the release of information

14 on any meeting, record or vote.

15

16 Now Therefore,

17

18 **BE IT ORDAINED BY THE CITY OF ST. LOUIS, AS FOLLOWS:**

19

20 Section One. Definition-

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1 1. "The City"- As used herein, "the City" shall mean the City of St. Louis and any one or
2 more of its departments, divisions, boards, commissions or other subunits and any of its
3 agencies or related agencies that are subject to Chapter 610 of the Missouri Statutes.

4

5 Section Two.

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7 1. The individuals designated on the attached list, attached hereto as Exhibit A and as
8 hereafter kept and maintained in updated form in the Office of the Register, shall serve as
9 custodians of records for their respective departments or divisions.

10 2. Said custodians shall respond to all requests for access to or copies of a public record
11 in possession of the department or division within the time period provided by statute
12 except in those circumstances authorized by statute.

13 3. The fees to be charged for access to or furnishing copies of records shall be in
14 compliance with section 610.026, RSMo.

15 4. The City shall comply with sections 610.010 to 610.030, RSMo, the Sunshine Law, as
16 now existing or hereafter amended.

17 5. It is the public policy of the City that records of the City shall be open to the public
18 unless otherwise provided by law or as set forth below:

19 (a) Legal actions, causes of action or litigation involving the City and any
20 confidential or privileged communications between the City or its representatives and its

1 attorneys. However, any minutes, vote or settlement agreement relating to legal actions,
2 causes of action or litigation involving the City or any agent or entity representing its
3 interests or acting on its behalf or with its authority, including any insurance company
4 acting on behalf of the City as its insured, shall be made public upon final disposition of
5 the matter voted upon or upon the signing by the parties of the settlement agreement,
6 unless, prior to final disposition, the settlement agreement is ordered closed by a court
7 after a written finding that the adverse impact to a plaintiff or plaintiffs to the action
8 clearly outweighs the public policy considerations of section 610.011, however, the
9 amount of any moneys paid by, or on behalf of, the City shall be disclosed; provided,
10 however, in matters involving the exercise of the power of eminent domain, the vote shall
11 be announced or become public immediately following the action on the motion to
12 authorize institution of such a legal action. Legal work product shall be considered a
13 closed record;

14 **(b)** Leasing, purchase or sale of real estate by the City where public knowledge of the
15 transaction might adversely affect the legal consideration therefor. However, any
16 minutes, vote or public record approving a contract relating to the leasing, purchase
17 or sale of real estate by the City shall be made public upon execution of the lease,
18 purchase or sale of the real estate;

19 **(c)** Hiring, firing, disciplining or promoting of particular employees by the City
20 when personal information about the employee is discussed or recorded.
21 However, any vote on a final decision, when taken by the City, to hire, fire,
22 promote or discipline an employee shall be made available with a record of how

1 each member voted to the public within seventy-two hours of the close of the
2 meeting where such action occurs; provided, however, that any employee so
3 affected shall be entitled to prompt notice of such decision during the seventy-
4 two-hour period before such decision is made available to the public. As used in
5 this subdivision, the term “**personal information**” means information relating to
6 the performance or merit of individual employees;

7 **(d)** The state militia or National Guard or any part thereof;

8 **(e)** Nonjudicial mental or physical health proceedings involving identifiable persons,
9 including medical, psychiatric, psychological, or alcoholism or drug dependency
10 diagnosis or treatment;

11 **(f)** Scholastic probation, expulsion, or graduation of identifiable individuals,
12 including records of individual test or examination scores; however, personally
13 identifiable student records maintained by public educational institutions shall be
14 open for inspection by the parents, guardian or other custodian of students under the
15 age of eighteen years and by the parents, guardian or other custodian and the student
16 if the student is over the age of eighteen years;

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

19 **(h)** Welfare cases of identifiable individuals;

1 (i) Preparation, including any discussions or work product, on behalf of the City or its
2 representatives for negotiations with employee groups;

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

4 (k) Specifications for competitive bidding, until either the specifications are officially
5 approved by the City or the specifications are published for bid;

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

9 (m) Individually identifiable personnel records, performance ratings or records
10 pertaining to employees or applicants for employment, except that this exemption
11 shall not apply to the names, positions, salaries and lengths of service of officers and
12 employees of public agencies once they are employed as such, and the names of
13 private sources donating or contributing money to the salary of a chancellor or
14 president at all public colleges and universities in the state of Missouri and the
15 amount of money contributed by the source;

16 (n) Records which are protected from disclosure by law;

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

19 (p) Records relating to municipal hotlines established for the reporting of abuse and
20 wrongdoing, including the Citizens Service Bureau;

1 (q) Confidential or privileged communications between the City and its auditor,
2 including all auditor work product; however, all final audit reports issued by the
3 auditor are to be considered open records pursuant to this chapter;

4 (r) Operational guidelines and policies developed, adopted, or maintained by any
5 public agency responsible for law enforcement, public safety, first response, or public
6 health for use in responding to or preventing any critical incident which is or appears
7 to be terrorist in nature and which has the potential to endanger individual or public
8 safety or health. Nothing in this exception shall be deemed to close information
9 regarding expenditures, purchases, or contracts made by an agency in implementing
10 these guidelines or policies. When seeking to close information pursuant to this
11 exception, the agency shall affirmatively state in writing that disclosure would impair
12 its ability to protect the safety or health of persons, and shall in the same writing state
13 that the public interest in nondisclosure outweighs the public interest in disclosure of
14 the records. This exception shall sunset on December 31, 2008;

15 (s) Existing or proposed security systems and structural plans of real property owned
16 or leased by the City, and information that is voluntarily submitted by a nonpublic
17 entity owning or operating an infrastructure to the City for use by that body to devise
18 plans for protection of that infrastructure, the public disclosure of which would
19 threaten public safety:

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

- 1 2. When seeking to close information pursuant to this exception, the public
2 governmental body shall affirmatively state in writing that disclosure
3 would impair the public governmental body's ability to protect the security
4 or safety of persons or real property, and shall in the same writing state
5 that the public interest in nondisclosure outweighs the public interest in
6 disclosure of the records;
- 7 3. Records that are voluntarily submitted by a nonpublic entity shall be
8 reviewed by the receiving agency within ninety days of submission to
9 determine if retention of the document is necessary in furtherance of a
10 state security interest. If retention is not necessary, the documents shall be
11 returned to the nonpublic governmental body or destroyed;
- 12 4. This exception shall sunset on December 31, 2008;

13 **(t)** Records that identify the configuration of components or the operation of a
14 computer, computer system, computer network, or telecommunications network, and
15 would allow unauthorized access to or unlawful disruption of a computer, computer
16 system, computer network, or telecommunications network of a public governmental
17 body. This exception shall not be used to limit or deny access to otherwise public
18 records in a file, document, data file or database containing public records. Records
19 related to the procurement of or expenditures relating to such computer, computer
20 system, computer network, or telecommunications network, including the amount of
21 moneys paid by, or on behalf of, a public governmental body for such computer,
22 computer system, computer network, or telecommunications network shall be open;
23 and

1 **(u)** Credit card numbers, personal identification numbers, digital certificates, physical
2 and virtual keys, access codes or authorization codes that are used to protect the security
3 of electronic transactions between the City and a person or entity doing business with the
4 City. Nothing in this section shall be deemed to close the record of a person or entity
5 using a credit card held in the name of the City or any record of a transaction made by a
6 person using a credit card or other method of payment for which reimbursement is made
7 by the City.

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