

COMPARED VERSION  
NEW ORDINANCE TO CODE BOOKS

ORDINANCE NO. 260510

Amending Chapter 2 of the Code of Ordinances, “ADMINISTRATION,” by enacting a new Article XX, “OPEN MEETINGS AND RECORDS” to codify the City’s policy with respect to open records and meetings, modernize the policy, and enact governance changes that provide that the City Attorney will coordinate and have oversight of the request fulfillment process and repealing Section 2-115 of the City’s code.

WHEREAS, consistent with the adoption of the FY 2027 budget, it is the Council’s desire to enact legislative change to the City’s code that modernizes its existing provisions related to open records and meetings and establishes the Law Department’s role in coordinating the open records request fulfillment process; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 2 of the Code of Ordinances, “ADMINISTRATION,” is amended by enacting a new Article XX “OPEN MEETINGS AND RECORDS” to codify the City’s policy with respect to open records and meetings, modernize the policy, and enact governance changes that provide that the City Attorney will coordinate and have oversight of the request fulfillment process, to read as follows:

**CHAPTER 2, ARTICLE XX OPEN MEETINGS AND RECORDS**

**Sec. 2-2400. Policy.**

(a) The provisions of this article shall apply to all public governmental bodies of the city. It is the policy of the city that all public meetings, records, votes, actions, and deliberations be open to the public unless otherwise provided by law.

(b) Each department and office of the city shall broadly interpret any request for information under Section 610.023 of the Revised Statutes of Missouri:

- (1) Even if such request for information does not use the words “sunshine request,” “open records request,” “public records request” or any such similar wording.
- (2) Even if such request for information is not submitted through the city’s designated online portal. In such an event departments and offices that receive records requests made in a manner other than through the online portal shall forward such requests to the Records Request Commissioner for processing and assignment.
- (3) Even if the communication is simply an inquiry as to the availability or existence of data or information.
- (4) Regardless of the format in which the communication is made, including electronic mail, facsimile, internet, postal mail, in person, telephone or any other format.

- (c) In no event shall this article be construed to enlarge the city's obligations with respect to public records requests beyond that which is required by state law.

## **Sec. 2-2401. Definitions.**

For purposes of this article and consistent with state law, the terms below are defined as follows:

(a) *City* shall mean the City of Kansas City and any one or more of its departments, offices, boards, commissions or other subunits that are subject to Chapter 610 of the Revised Statutes of Missouri.

(b) *Public business* means all matters which relate in any way to the performance of the public governmental body's functions or the conduct of its business;

(c) *Public governmental body* means the City Council and its committees, or any other administrative or governmental entity created by the Charter, the Code of Ordinances, Council order, resolution or ordinance, or by executive or administrative order, including any department, division, agency, board, bureau, council, commission, committee, or advisory body, any other legislative or administrative governmental deliberative body under the direction of three or more elected or appointed members having rule-making or quasi-judicial power, any committee appointed by any of the above-named entities and which is authorized to report to those entities, and any quasi-public governmental body.

(d) *Public meeting* means any meeting in person or by electronic communication of a public governmental body at which a quorum has been established and at which any public business is discussed, decided, or public policy formulated, as well as a public vote of all or a majority of the members of a public governmental body, by any means, conducted in lieu of a public meeting at one location in order to conduct public business. The term "public meeting" shall not include an informal gathering of members of a public governmental body for ministerial or social purposes when there is no intent to avoid the purposes of the Sunshine Law.

(e) *Public record* means any record retained by or of any public governmental body including any report, survey, memorandum, or other document or study prepared and presented to the public governmental body by a consultant or other professional paid for in whole or in part by public funds. The term "public record" shall not include any internal memorandum or letter received or prepared by or on behalf of a member of a public governmental body consisting of advice, opinions and recommendations in connection with the deliberative decision-making process of such body, unless such records are retained by the public governmental body or presented at a public meeting.

(f) *Public vote* means any vote cast at any public meeting of any public governmental body including votes by electronic communication or any other means when the members are not gathered at one location.

(g) *Quasi- public governmental body* means any person, corporation or partnership organized or authorized to do business in Missouri pursuant to the provisions of Chapter 352, 353, or 355, of the Revised Statutes of Missouri, or unincorporated association which has as its primary purpose to enter into contracts with public governmental bodies, or to engage primarily in activities

carried out pursuant to one or more agreements with public governmental bodies, or which performs a public function by advancing, through approval, recommendation, or other means, the allocation or issuance of tax credits, tax abatement, public debt, tax exempt debt, rights of eminent domain, or the contracting of leaseback arrangements where public tax revenue is committed, or any association that accepts the appropriation of money from a public governmental body, to the extent its activities relate to the appropriation.

(h) *Sunshine law* shall mean the state law governing open meetings and records of public governmental bodies codified in Chapter 610 of the Revised Statutes of Missouri.

**Sec. 2-2402. Closed public meetings, records and votes to be open; exceptions.**

(a) Except to the extent disclosure is required by law, it is the policy of the city to close meetings, records and votes that pertain to the exemptions set forth in Section 610.021 of the Revised Statutes of Missouri or otherwise allowed by law. Consistent with Sec. 2-2400 of this article, in the event the Missouri Legislature amends Section 610.021 of the Revised Statutes of Missouri after enactment of this section in such a way that modifies the scope of allowed exemptions, this section shall be read to incorporate by reference the current version of Section 610.021 of the Revised Statutes of Missouri.

(b) A public governmental body may close public meetings and votes, or portions thereof, to the extent they relate to one (1) or more of the subjects incorporated in subsection 1 above, provided that meetings are closed only after affirmative vote of a majority of a quorum of the public governmental body. The vote of each member of the public governmental body on the question of closing a public meeting or vote in reference to a specific provision of subsection 1 or Section 610.021 of the Revised Statutes of Missouri. shall be announced publicly at an open meeting of the public governmental body and entered into its minutes.

(c) A public governmental body proposing to hold a closed meeting or vote shall give notice of the time, date and place of such closed meeting or vote and the reason for holding it by reference to the specific exception allowed pursuant to provisions of this section or Section 610.021 of the Revised Statutes of Missouri. Such notice shall comply with the procedures set forth in Section 114.030 for notice of a public meeting.

(d) Any meeting or vote closed pursuant to this section shall be closed only to the extent necessary for the specific reason announced to justify the closed meeting or vote. The members of public governmental bodies shall not discuss any business in a closed meeting or vote which does not directly relate to the specific reason announced to justify the closed meeting or vote. Public governmental bodies holding a closed meeting shall close only an existing portion of the meeting facility necessary to house the members of the public governmental body in a closed session, allowing members of the public to remain to attend any subsequent open session held by the public governmental body following the closed session.

(e) Any vote taken during a closed meeting shall be taken by roll call.

(f) In the event any member of a public governmental body makes a motion to close a meeting or vote to the public and any other member believes that such motion, if passed, would cause a meeting or vote to be closed in violation of any provision of the Missouri Sunshine Law, such member shall state his or her objection to the motion at or before the vote is taken on the

motion. The public governmental body shall enter in its minutes any such objection. Any member making such an objection shall be allowed to fully participate in any meeting or vote that is closed to the public over the member's objection.

**Sec. 2-2403. Notice, recording, accessibility and minutes of meetings.**

(a) All public governmental bodies shall provide the City Clerk a notice detailing the time, date and place of each meeting, and its tentative agenda, in a manner reasonably calculated to advise the public of the matters to be considered, and if the meeting will be conducted by telephone, videoconference, or other electronic means, the notice of the meeting shall identify the mode by which the meeting will be conducted and the designated location where the public may observe and attend the meeting. Reasonable notice shall include making available copies of the notice to any representative of the news media who requests notice of meetings of a particular public governmental body concurrent with notice being made available to the members of the particular public governmental body and posting the notice on a bulletin board or other prominent place which is easily accessible to the public and clearly designated for that purpose at the principal office of the body holding the meeting, or if no such office exists, at the building in which the meeting is to be held.

(b) The City Clerk shall ensure compliant posting of notices received pursuant to subsection 1 above and may establish reasonable regulations to ensure compliance.

**Sec. 2-2404. Taking of votes.**

Unless otherwise provided by law, all votes shall be recorded, and if a roll call is taken, each “yea” or “nay” vote, or abstention, shall be attributed to the name of the individual member of the public governmental body.

**Sec. 2-2405. Records pertaining to medical condition.**

All information obtained by the city regarding medical examinations, medical condition or medical history of city employees or job applicants, if retained by the city, shall be collected and maintained on separate forms and in separate medical files and shall be treated as closed and confidential records, except that:

(a) supervisors and managers may be informed regarding necessary restrictions on the work duties of employees and necessary accommodations;

(b) first-aid and safety personnel may be informed, when appropriate, if the information reflects the existence of a disability which might require emergency treatment.

**Sec. 2-2406. Records request commissioner; designation and duties generally.**

(a) There shall be a City Records Request Commissioner in the Law Department designated by the City Attorney to be responsible for coordination with all city departments and offices to ensure that requests are properly tracked and fulfilled, monitoring the city’s overall performance, and implementing all measures necessary to ensure the city’s compliance with this article. The Records Request Commissioner shall also maintain oversight of and ensure the proper function of the city’s records request portal.

(b) The Records Request Commissioner shall maintain a complete list of the identity, location and telephone number of each record custodian for each city department, board, commission, committee, task force and similar group.

(c) The Records Request Commissioner shall organize, schedule, and maintain oversight of the city's Sunshine Law educational efforts which include, but are not limited to, regularly scheduled trainings and the provision of training materials for all departmental and office custodians of record.

**Sec. 2-2406. Designation of custodians.**

(a) The director of each city department or office shall designate one employee, and one alternate employee, within said department or office to be responsible for the maintenance of all records pertaining to their department or office and for every board, committee or commission to which the Department or office is required or directed to provide staff assistance. The City Clerk shall be the custodian of all city council records. Each council member's office and the office of the mayor shall appoint a qualified person to serve as a custodian. The Court Administrator, or the Administrator's designee, shall be the custodian of all city municipal court records.

(b) Each Department and Office shall provide the Records Request Commissioner the name and contact information for their custodian and alternate. The list of individuals so designated shall be kept and maintained by the Records Request Commissioner. Departments and offices shall, as soon as practicable, inform the Records Request Commissioner of any change to their departments or office's custodian or custodian alternate.

(c) The director of any department or office shall not serve as the custodian of records for their department or office.

(d) No employee designated as custodian or alternate hereunder shall provide any response to a request under the Sunshine Law for records which includes them directly or indirectly in the request.

(e) Custodians shall undertake all efforts to ensure compliance with this article, including, but not limited to:

- (1) Ensure their assigned requests are timely and accurately fulfilled;
- (2) Establish and maintain internal systems as necessary to track the progress of records requests; communicate with requestors to provide updates and/or seek clarification on requests; and
- (3) Report to the Records Request Commissioner as necessary to provide information on requests and obtain assistance as needed to ensure compliance with this article.

(f) All requests for access to a public record shall be directed to the City Records Request Commissioner who shall coordinate production of responsive records with the designated custodian and act upon each request for access to a public record as soon as possible, but no later than the end of the third business day following the date the request is received. If, for reasonable

cause, access to the public record is not granted by the end of the third business day following the date the request is received, the custodian shall give a detailed explanation of the cause for delay and provide the earliest date, time and place that the record will be available for inspection. If records are requested in a certain format, the custodian shall provide the records in the requested format, if such format is available.

(g) If the request for access is denied, the custodian shall provide the City Records Request Commissioner a written statement of the grounds for such denial stating the specific provision of law under which access is denied. The statement shall be provided to the requestor no later than the end of the third business day following the date that the request for the statement is received.

(h) If the custodian is unsure whether the record sought is open or closed under the Sunshine Law, the custodian shall seek the advice of the Law department and act in reliance on said advice.

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

## **Sec. 2-2406. Fees.**

(a) Fees for copying public records, except those records restricted under Section 32.091 of the Revised Statutes of Missouri, shall not exceed ten cents per page for a paper copy not larger than nine by fourteen inches, with the hourly fee for duplicating time not to exceed the average hourly rate of pay for clerical staff of the public governmental body. Research time required for fulfilling records requests may be charged at the actual cost of research time. Based on the scope of the request, the public governmental body shall produce the copies using employees of the body that result in the lowest amount of charges for search, research, and duplication time. Prior to producing copies of the requested records, the person requesting the records may request the public governmental body to provide an estimate of the cost to the person requesting the records. Documents may be furnished without charge or at a reduced charge when the Records Request Commissioner determines that waiver or reduction of the fee is in public interest because it is likely to contribute significantly to public understanding of the operations or activities of the public governmental body and is not primarily in the commercial interest of the requester;

(b) Fees for providing access to public records maintained on computer facilities, recording tapes or disks, videotapes or films, pictures, maps, slides, graphics, illustrations or similar audio or visual items or devices, and for paper copies larger than nine by fourteen inches shall include only the cost of copies, staff time, which shall not exceed the average hourly rate of pay for staff of the public governmental body required for making copies and programming, if necessary, and the cost of the disk, tape, or other medium used for the duplication. Fees for maps, blueprints, or plats that require special expertise to duplicate may include the actual rate of compensation for the trained personnel required to duplicate such maps, blueprints, or plats. If programming is required

beyond the customary and usual level to comply with a request for records or information, the fees for compliance may include the actual costs of such programming.

(c) Payment of fees may be requested prior to fulfilling the request.

(d) Requestors shall be encouraged to make payment of fees associated with fulfillment of records requests through the online portal. While utilization of the online portal is the preferred method for payment of records request fees, other valid forms of payment (e.g., checks or money orders) must be accepted if a requester wishes to remit payment in such a manner. All payments remitted in a manner alternative to the online portal shall be made payable to the City Treasurer.

(e) A request for public records to a public governmental body shall be considered withdrawn if the requester fails to remit all fees within ninety days, or within one hundred fifty days if the requested fees are greater than one thousand dollars, of a request for payment of the fees by the public governmental body, prior to fulfilling the request. The public governmental body shall include notice to the requester that if the requester fails to remit payment of the fees within ninety days, or within one hundred fifty days if the requested fees are greater than one thousand dollars, then the request for public records shall be considered withdrawn.

(f) If the public governmental body responds to a request for public records in order to seek a clarification of the request and no response to the request for clarification is received by the public governmental body within ninety days, or within one hundred fifty days if the requested fees are greater than one thousand dollars, of sending the request for clarification, then such request for public records shall be considered withdrawn. The request for clarification by the public governmental body shall include notice to the requester that if the requester fails to respond within ninety days, or within one hundred fifty days if the requested fees are greater than one thousand dollars, then the request shall be considered withdrawn.

(g) Except as otherwise provided by law, each public governmental body of a political subdivision of the state shall remit all moneys received by it or for it from fees charged pursuant to Sections 610.010 to 610.028 of the Revised Statutes of Missouri to the appropriate fiscal officer of such political subdivision for deposit to the governmental body's accounts.

#### **Sec. 2-2407. Electronic communications on city-issued devices.**

(a) For purposes of this section “electronic communications” include any electronic methods of transmitting messages, including, but not limited to email messages, text messages, voicemail messages, and any other message transmitted electronically. “city-issued device” or “city issued devices” shall include electronic equipment, including but not limited to laptop and desktop computers, smartphones and tablets, radios or communication devices, printers or specialized field equipment (e.g., inspection tools) or hardware that is purchased, owned, and provided by the city for official use by its employees, officers, departments, or authorized personnel.

(b) All records contained on city-issued devices including, but not limited to, cell phones, desktop and laptop computers and tablets are subject to the provisions of this article and the Sunshine Law. Therefore, when a records request necessitates examination of records contained on a city-issued device, any employee or public governmental body member in possession of such

shall, upon request from the Law Department, provide the device at their earliest convenience to facilitate the production of responsive records as required by the Sunshine Law.

(c) All requests or portions of requests seeking electronic communications on city-issued devices shall be addressed by the Law Department in conjunction with the staff, department, or division with oversight of city information technology operations.

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

**Sec. 2-2408. Closed records to be confidential.**

Records and information that have been closed pursuant to the provisions of this chapter or applicable state or federal law are to be treated as confidential by all employees and elected and appointed officials of the city. No custodian or other city official or employee shall cause or permit the inspection or copying of a closed record by members of the public.

**Sec. 2-2409. Legal defense of governmental employees.**

Any city employee, including any approved volunteer on behalf of city, may be represented upon request by the city attorney in any cause of action charging that the person has violated one (1) or more provisions of Chapter 610 of the Revised Statutes of Missouri, subject to any limitations in the city's legal expense fund.

**Sec. 2-2410. Remedy for failure to follow City policy and procedure.**

Every employee and officer of the city shall cooperate in good faith with designated custodians, alternates, and the Records Request Commissioner in the administration of this article. Failure to comply with any provision of this article and the Sunshine Law shall be considered good cause for disciplinary action against any officer or employee of the city.

Section 2. That Chapter 2, Code of Ordinances, "ADMINISTRATION", is amended by amended by repealing Section 2-115 in its entirety.

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Approved as to form:

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Tara Moreland  
Assistant City Attorney