

TITLE I. GOVERNMENT CODE

CHAPTER 100: GENERAL PROVISIONS

ARTICLE I. CITY INCORPORATION AND SEAL

SECTION 100.010: MUNICIPAL INCORPORATION

The inhabitants of the City of Mount Vernon, as its limits now are or may hereafter be defined by law, shall be and continue a body corporate by the name of "The City of Mount Vernon" and as such shall have perpetual succession, may sue and be sued, implead and be impleaded, defend and be defended in all courts of law and equity and in all actions whatever; may receive and hold property, both real and personal, within such City and may purchase, receive and hold real estate within or without such City for the burial of the dead; and may purchase, hold, lease, sell or otherwise dispose of any property, real or personal, it now owns or may hereafter acquire; may receive bequests, gifts and donations of all kinds of property; and may have and hold one (1) common Seal and may break, change or alter the same at pleasure; and may do any act, exercise any power and render any service which contributes to the general welfare, and all courts of this State shall take judicial notice thereof.

SECTION 100.020: CITY SEAL

- A. The Seal of the City of Mount Vernon shall be circular in form, one and seven-eighths ($1\frac{7}{8}$) inches in diameter, with the words "Lawrence County, Missouri" engraved across the face thereof, and the words "Seal of the City of Mount Vernon" engraved on the face thereof and near the outer edge of said Seal, and the same is hereby declared to be adopted as the Seal of the City of Mount Vernon.
- B. The City Clerk shall be the keeper of the common Seal of the City of Mount Vernon, and any impression of said Seal to any contract or other writing shall have no validity or binding obligation upon the City unless such impression be accompanied by the attestation and signature of the City Clerk, and then only in cases authorized by law or the ordinances of this City.

ARTICLE II. GENERAL CODE PROVISIONS

SECTION 100.030: CONTENTS OF CODE

This Code contains all ordinances of a general and permanent nature of the City of Mount Vernon, Missouri, and includes ordinances dealing with municipal administration, municipal elections, building and property regulation, business and occupations, health and sanitation, public order and similar objects.

SECTION 100.040: CITATION OF CODE

This Code may be known and cited as the "Municipal Code of the City of Mount Vernon, Missouri".

SECTION 100.050: OFFICIAL COPY OF CODE

The Official Copy of this Code, bearing the signature of the Mayor and attestation of the City Clerk as to its adoption, shall be kept on file in the office of the City Clerk. Two (2) additional copies of this Code shall be kept in the City Clerk's office available for public inspection.

SECTION 100.060: ALTERING OR AMENDING CODE

- A. It shall be unlawful for any person to change or amend by additions or deletions any part or portion of this Code, or to insert or delete pages, or portions thereof, or to alter or tamper with such Official Copy of the Code in any manner whatsoever which will cause the law of the City to be misrepresented thereby. Any person, firm or corporation violating this Section shall be punished as provided in Section 100.220 of this Code.
- B. This provision shall not apply to amendments, additions or deletions to this Code, duly passed by the Board of Aldermen, which may be prepared by the City Clerk for insertion in this Code.

SECTION 100.070: NUMBERING OF CODE

Each Section number of this Code shall consist of two (2) parts separated by a period; the figure before the period referring to the Chapter number, and the figure after the period referring to the position of the Section in the Chapter. Both figures shall consist of three (3) digits.

SECTION 100.080: DEFINITIONS AND RULES OF CONSTRUCTION

- A. In the construction of this Code and of all other ordinances of the City, the following definitions shall be observed, unless it shall be otherwise expressly provided in any Section or ordinance, or unless inconsistent with the manifest intent of the Board of Aldermen, or unless the context clearly requires otherwise:

BOARD OF ALDERMEN: The Board of Aldermen of the City of Mount Vernon, Missouri.

CITY: The words "*the City*" or "*this City*" or "*City*" shall mean the City of Mount Vernon, Missouri.

COUNTY: The words "*the County*" or "*this County*" or "*County*" shall mean the County of Lawrence, Missouri.

DAY: A day of twenty-four (24) hours beginning at 12:00 Midnight.

MAY: Is permissive.

MAYOR: An officer of the City known as the Mayor of the Board of Aldermen of the City of Mount Vernon, Missouri.

MONTH: A calendar month.

OATH: Includes an affirmation in all cases in which an affirmation may be substituted for an oath,

and in such cases the words "*swear*" and "*sworn*" shall be equivalent to the words "*affirm*" and "*affirmed*".

OWNER: The word "*owner*", as applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety of the whole or a part of such building or land.

PERSON: May extend and be applied to bodies politic and corporate, and to partnerships and other unincorporated associations.

PERSONAL PROPERTY: Includes money, goods, chattels, things in action and evidences of debt.

PRECEDING, FOLLOWING: When used by way of reference to any Section of this Code, shall mean the Section next preceding or next following that in which the reference is made, unless some other Section is expressly designated in the reference.

PROPERTY: Includes real and personal property.

PUBLIC WAY: Includes any street, alley, boulevard, parkway, highway, sidewalk or other public thoroughfare.

REAL PROPERTY: The terms "*real property*", "*premises*", "*real estate*" or "*lands*" shall be deemed to be co-extensive with lands, tenements and hereditaments.

SHALL: Is mandatory.

SIDEWALK: That portion of the street between the curb line and the adjacent property line which is intended for the use of pedestrians.

STATE: The words "*the State*" or "*this State*" or "*State*" shall mean the State of Missouri.

STREET: Includes any public way, highway, street, avenue, boulevard, parkway, alley or other public thoroughfare, and each of such words shall include all of them.

TENANT, OCCUPANT: The words "*tenant*" or "*occupant*", applied to a building or land, shall include any person who occupies the whole or a part of such building or land, whether alone or with others.

WRITING, WRITTEN, IN WRITING AND WRITING WORD FOR WORD: Includes printing, lithographing, or other mode of representing words and letters, but in all cases where the signature of any person is required, the proper handwriting of the person, or his/her mark, is intended.

YEAR: A calendar year, unless otherwise expressed, and the word "*year*" shall be equivalent to the words "*year of our Lord*".

B. *Newspaper*. Whenever in this Code or other ordinance of the City it is required that notice be published in the "official newspaper" or a "newspaper of general circulation published in the City", and if there is no newspaper published within the City, the said notice shall be published in a newspaper of general circulation within the City, regardless of its place of publication. Such newspaper shall not include an advertising circular or other medium for which no subscription list is maintained.

SECTION 100.090: WORDS AND PHRASES—HOW CONSTRUED

Words and phrases shall be taken in their plain or ordinary and usual sense, but technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

SECTION 100.100: HEADINGS

The headings of the Chapters and Sections of this Code are intended as guides and not as part of this Code for purposes of interpretation or construction.

SECTION 100.110: CONTINUATION OF PRIOR ORDINANCES

The provisions appearing in this Code, so far as they are in substance the same as those of ordinances existing at the time of the adoption of this Code, shall be considered as a continuation thereof and not as new enactments.

SECTION 100.120: EFFECT OF REPEAL OF ORDINANCE

No offense committed and no fine, penalty or forfeiture incurred, or prosecution commenced or pending previous to or at the time when any ordinance provision is repealed or amended, shall be affected by the repeal or amendment, but the trial and punishment of all such offenses and the recovery of the fines, penalties or forfeitures shall be had, in all respects, as if the provision had not been repealed or amended, except:

- .1. All such proceedings shall be conducted according to existing procedural laws; and
- .2. If the penalty or punishment for any offense is reduced or lessened by any alteration of the law creating the offense prior to original sentencing, the penalty or punishment shall be assessed according to the amendatory law.

SECTION 100.130: REPEALING ORDINANCE REPEALED—FORMER ORDINANCE NOT REVIVED—WHEN

When an ordinance repealing a former ordinance, clause or provision is itself repealed, it does not revive the former ordinance, clause or provision, unless it is otherwise expressly provided; nor shall any ordinance repealing any former ordinance, clause or provision abate, annul or in anywise affect any proceedings had or commenced under or by virtue of the ordinance so repealed, but the same is as effectual and shall be proceeded on to final judgment and termination as if the repealing ordinance had not passed, unless it is otherwise expressly provided.

SECTION 100.140: SEVERABILITY

It is hereby declared to be the intention of the Board of Aldermen that the Chapters, Sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph, Section or Chapter of this Code shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of any court of competent jurisdiction, such

unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, Sections and Chapters of this Code since the same would have been enacted by the Board of Aldermen without the incorporation in this Code of any such unconstitutional or invalid phrase, clause, sentence, paragraph or Section.

SECTION 100.150: TENSE

Except as otherwise specifically provided or indicated by the context, all words used in this Code indicating the present tense shall not be limited to the time of adoption of this Code but shall extend to and include the time of the happening of any act, event or requirement for which provision is made herein, either as a power, immunity, requirement or prohibition.

SECTION 100.160: NOTICE

Whenever notice may be required under the provisions of this Code or other City ordinance, the same shall be served in the following manner:

- .1. By delivering the notice to the person to be served personally or by leaving the same at his/her residence, office or place of business with some person of his/her family over the age of fifteen (15) years;
- .2. By mailing said notice by certified or registered mail to such person to be served at his/her last known address; or
- .3. If the person to be served is unknown or may not be notified under the requirements of this Section, then by posting said notice in some conspicuous place at least five (5) days before the act or action concerning which the notice is given is to take place. No person shall interfere with, obstruct, mutilate, conceal or tear down any official notice or placard posted by any City Officer, unless permission is given by said officer.

SECTION 100.170: NOTICE-EXCEPTIONS

The provisions of the preceding Section shall not apply to those Chapters of this Code wherein there is a separate definition of notice.

SECTION 100.180: COMPUTATION OF TIME

In computing any period of time prescribed or allowed by this Code or by a notice or order issued pursuant thereto, the day of the act, event or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

SECTION 100.190: GENDER

When any subject matter, party or person is described or referred to by words importing the masculine, females as well as males, and associations and bodies corporate as well as individuals, shall be deemed to be included.

SECTION 100.200: JOINT AUTHORITY

Words importing joint authority to three (3) or more persons shall be construed as authority to a majority of such persons unless otherwise declared in the law giving the authority.

SECTION 100.210: NUMBER

When any subject matter, party or person is described or referred to by words importing the singular number, the plural and separate matters and persons and bodies corporate shall be deemed to be included; and when words importing the plural number are used, the singular shall be included.

ARTICLE III. PENALTY**SECTION 100.220: GENERAL PENALTY**

- A. Whenever in this Code or any other ordinance of the City, or in any rule, regulation, notice or order promulgated by any officer or agency of the City under authority duly vested in him/her or it, any act is prohibited or is declared to be unlawful or an offense, misdemeanor or ordinance violation or the doing of any act is required or the failure to do any act is declared to be unlawful or an offense or a misdemeanor or ordinance violation, and no specific penalty is provided for the violation thereof, upon conviction of a violation of any such provision of this Code or of any such ordinance, rule, regulation, notice or order, the violator shall be punished by a fine not exceeding five hundred dollars (\$500.00) or by imprisonment in the City or County Jail not exceeding ninety (90) days, or by both such fine and imprisonment; provided, that in any case wherein the penalty for an offense is fixed by a Statute of the State, the statutory penalty, and no other, shall be imposed for such offense, except that imprisonments may be in the City prison or workhouse instead of the County Jail.
- B. Every day any violation of this Code or any other ordinance or any such rule, regulation, notice or order shall continue shall constitute a separate offense.
- C. Whenever any act is prohibited by this Code, by an amendment thereof, or by any rule or regulation adopted thereunder, such prohibition shall extend to and include the causing, securing, aiding or abetting of another person to do said act. Whenever any act is prohibited by this Code, an attempt to do the act is likewise prohibited.

CHAPTER 105: ELECTIONS

ARTICLE I. GENERALLY

SECTION 105.010: CONFORMANCE OF CITY ELECTIONS WITH STATE LAW

All City elections shall be conducted and held in conformance with the provisions of Chapter 115, RSMo.

SECTION 105.020: DATE OF MUNICIPAL ELECTION

- A. A municipal election for the qualified voters of this City shall be held on the first (1st) Tuesday after the first (1st) Monday in April of each year.
- B. On the first (1st) Tuesday after the first (1st) Monday in April of even-numbered years, a municipal election of the qualified voters of the City of Mount Vernon shall be held for the purpose of electing a Mayor who shall hold his/her office for a term of two (2) years and until his/her successor is elected and qualified.
- C. On the first (1st) Tuesday after the first (1st) Monday in April of even-numbered years, a municipal election of the qualified voters of the City of Mount Vernon shall be held for the purpose of electing one (1) Alderman from each ward who shall hold his/her office for a term of two (2) years and until his/her successor is elected and qualified.
- D. On the first (1st) Tuesday after the first (1st) Monday in April of odd-numbered years, a municipal election of the qualified voters of the City of Mount Vernon shall be held for the purpose of electing one (1) Alderman from each ward who shall hold his/her office for a term of two (2) years and until his/her successor is elected and qualified.

SECTION 105.030: DECLARATION OF CANDIDACY—DATES FOR FILING

Any person who desires to become a candidate for an elective City office at the general City election shall file with the City Clerk, not prior to the hour of 8:00 A.M., on the sixteenth (16th) Tuesday prior to, nor later than 5:00 P.M., on the eleventh (11th) Tuesday prior to the next City municipal election, a written declaration of his/her intent to become a candidate at said election. The City Clerk shall keep a permanent record of the names of the candidates, the offices for which they seek election, and the date of their filing, and their names shall appear on the ballots in that order.

SECTION 105.035: CANDIDATES FOR MUNICIPAL OFFICE—NO ARREARAGE FOR MUNICIPAL TAXES OR USER FEES PERMITTED

No person shall be a candidate for municipal office unless such person complies with the provisions of Section 115.346, RSMo., regarding payment of municipal taxes or user fees.

SECTION 105.040: DECLARATION OF CANDIDACY–NOTICE TO PUBLIC

The City Clerk shall, on or before the sixteenth (16th) Tuesday prior to any election at which City offices are to be filled by said election, notify the general public of the opening filing date, the office or offices to be filled, the proper place for filing, and the closing filing date of the election. Such notification may be accomplished by legal notice published in at least one (1) newspaper of general circulation in the City.

SECTION 105.050: DECLARATION OF CANDIDACY–FORM

The form of said written declaration of candidacy shall be substantially as follows:

STATEMENT OF CANDIDACY

STATE OF MISSOURI)
) SS
COUNTY OF LAWRENCE)

I, _____, being first duly sworn, state that I reside at _____, City of Mount Vernon, County of Lawrence, Missouri; that I am a qualified voter; that I do hereby declare myself a candidate for the office of _____, to be voted upon at the municipal election to be held on the first (1st) Tuesday after the first (1st) Monday in April, _____, and I meet all the qualifications required of a candidate for said office, and I hereby request that my name be printed upon the official ballot for said election for said office and state that I will serve as such officer, if elected.

Signed:

Subscribed and sworn to before me this ___ day of _____, ____.

City Clerk
City of Mount Vernon

(S E A L)

SECTION 105.060: NOTICE OF ELECTIONS

In City elections, the City Clerk shall notify the County Clerk prior to 5:00 P.M. on the tenth (10th) Tuesday prior to any City election except as noted in Section 115.125.1, RSMo. The notice shall be in writing, shall specify that the Board of Aldermen is calling the election, the purpose of the election, the date of the election, and shall include a certified copy of the legal notice to be published including the sample ballot. The written notice shall be executed on behalf of the Board of Aldermen by the Mayor of the Board

and shall include the attestation of the City Clerk and shall have affixed thereto the Seal of the City of Mount Vernon. The notice and any other information required by this Section may, with the prior notification to the election authority receiving the notice, be accepted by facsimile transmission prior to 5:00 P.M. on the tenth (10th) Tuesday prior to the election, provided that the original copy of the notice

and a certified copy of the legal notice to be published shall be received in the office of the election authority within three (3) business days from the date of the facsimile transmission.

ARTICLE II. WARDS

SECTION 105.070: DESIGNATION OF WARDS

For City and corporate purposes, the City of Mount Vernon, Missouri, shall be and is hereby divided into four (4) wards to be designated and known as Ward Number One, Ward Number Two, Ward Number Three and Ward Number Four.

- .1. Ward Number One shall be composed of all that portion of the corporate limits of the City of Mount Vernon, Missouri, lying and situated north and west of a line described as follows, to wit: Beginning at a point on the centerline of Business Loop I-44 where the same intersects the west boundary line of the City of Mount Vernon, Missouri; thence in an easterly direction along the centerline of said Business Loop I-44 to the intersection of the centerline of Spring Park Boulevard (otherwise known as Missouri Highway No. 39); thence in a northerly direction along said centerline of said Spring Park Boulevard to the intersection of Cherry Street; thence in an easterly direction along the centerline of said Cherry Street to the intersection of the centerline of McCause Street; thence in a northerly direction along said centerline of McCause Street, and a continuation thereof, to the north boundary line of the City of Mount Vernon, Missouri.
- .2. Ward Number Two shall be composed of all that portion of the corporate limits of the City of Mount Vernon, Missouri, lying and situated south of Ward Number One and west of a line described as follows, to wit: Beginning at a point on the intersection of the centerline of Cherry Street and Main Street, south to Sloan Street, east to Hickory; thence south along the centerline of said Hickory Street, and a continuation thereof, to the south boundary line of the City of Mount Vernon, Missouri.
- .3. Ward Number Three shall be composed of all that portion of the corporate limits of the City of Mount Vernon, Missouri, lying and situated east of Ward Number Two and south of a line described as follows, to wit: Beginning at a point on the intersection of the centerline of Cherry Street and the centerline of Main Street; thence in an easterly direction along said centerline of Cherry Street to a point intersecting with the south right-of-way line of Kings Street property; thence in an easterly direction along said south right-of-way line, and a continuation thereof, to the east boundary line of the City of Mount Vernon, Missouri.
- .4. Ward Number Four shall be composed of all that portion of the corporate limits of the City of Mount Vernon, Missouri, not included in the aforesaid limits of Ward Number One, Ward Number Two and Ward Number Three. (Ord. No. 1.112 §§2–6, 10-13-81)

CHAPTER 110: MAYOR AND BOARD OF ALDERMEN

ARTICLE I. MAYOR AND BOARD OF ALDERMEN

SECTION 110.010: ALDERMEN—QUALIFICATIONS

No person shall be an Alderman unless he/she be at least twenty-one (21) years of age, a citizen of the United States, and an inhabitant and resident of the City for one (1) year next preceding his/her election, and a resident, at the time he/she files and during the time he/she serves, of the ward from which he/she is elected.

SECTION 110.020: MAYOR—QUALIFICATIONS

No person shall be Mayor unless he/she be at least twenty-five (25) years of age, a citizen of the United States, and a resident of the City at the time of and for at least one (1) year next preceding his/her election.

SECTION 110.030: BOARD TO SELECT AN ACTING PRESIDENT—TERM

The Board shall elect one (1) of their own number who shall be styled "*Acting President of the Board of Aldermen*" and who shall serve for a term of one (1) year.

SECTION 110.040: ACTING PRESIDENT TO PERFORM DUTIES OF MAYOR—WHEN

When any vacancy shall happen in the office of Mayor by death, resignation, removal from the City, removal from office, refusal to qualify, or from any other cause whatever, the Acting President of the Board of Aldermen shall, for the time being, perform the duties of Mayor, with all the rights, privileges, powers and jurisdiction of the Mayor, until such vacancy be filled or such disability be removed; or, in case of temporary absence, until the Mayor's return.

SECTION 110.050: MAYOR AND BOARD—DUTIES

The Mayor and Board of Aldermen of each City governed by this Chapter shall have the care, management and control of the City and its finances and shall have power to enact and ordain any and all ordinances not repugnant to the Constitution and laws of this State, and such as they shall deem expedient for the good government of the City, the preservation of peace and good order, the benefit of trade and commerce, and the health of the inhabitants thereof, and such other ordinances, rules and regulations as may be deemed necessary to carry such powers into effect and to alter, modify or repeal the same.

SECTION 110.060: MAYOR MAY SIT IN BOARD

The Mayor shall have a seat in and preside over the Board of Aldermen but shall not vote on any question except in case of a tie, nor shall he/she preside or vote in cases when he/she is an interested party. He/she shall exercise a general supervision over all the officers and affairs of the City and

shall take care that the ordinances of the City, and the State laws relating to such City, are complied with.

SECTION 110.070: ORDINANCES—PROCEDURE TO ENACT

The style of the ordinances of the City shall be: "Be it ordained by the Board of Aldermen of the City of Mount Vernon, as follows:" No ordinance shall be passed except by bill, and no bill shall become an ordinance unless on its final passage a majority of the members elected to the Board of Aldermen shall vote for it, and the "ayes" and "nays" be entered on the journal. Every proposed ordinance shall be introduced to the Board of Aldermen in writing and shall be read by title or in full two (2) times prior to passage, both readings may occur at a single meeting of the Board of Aldermen. If the proposed ordinance is read by title only, copies of the proposed ordinance shall be made available for public inspection prior to the time the bill is under consideration by the Board of Aldermen. No bill shall become an ordinance until it shall have been signed by the Mayor, or person exercising the duties of the Mayor's office, or shall have been passed over the Mayor's veto as herein provided.

SECTION 110.080: BILLS MUST BE SIGNED—MAYOR'S VETO

Every bill duly passed by the Board of Aldermen and presented to the Mayor and by him/her approved shall become an ordinance, and every bill presented as aforesaid, but returned with the Mayor's objections thereto, shall stand reconsidered. The Board of Aldermen shall cause the objections of the Mayor to be entered at large upon the journal and proceed at its convenience to consider the question pending, which shall be in this form: "Shall the bill pass, the objections of the Mayor thereto notwithstanding?" The vote on this question shall be taken by "ayes" and "nays" and the names entered upon the journal, and if two-thirds ($\frac{2}{3}$) of all the members-elect shall vote in the affirmative, the City Clerk shall certify the fact on the roll, and the bill thus certified shall be deposited with the proper officer and shall become an ordinance in the same manner and with like effect as if it had received the approval of the Mayor. The Mayor shall have power to sign or veto any ordinance passed by the Board of Aldermen; provided, that should he/she neglect or refuse to sign any ordinance and return the same with his/her objections, in writing, at the next regular meeting of the Board of Aldermen, the same shall become a law without his/her signature.

SECTION 110.090: BOARD TO KEEP JOURNAL OF PROCEEDINGS

The Board of Aldermen shall cause to be kept a journal of its proceedings, and the "ayes" and "nays" shall be entered on any question at the request of any two (2) members. The Board of Aldermen may prescribe and enforce such rules as it may find necessary for the expeditious transaction of its business.

SECTION 110.100: BOARD SHALL PUBLISH SEMI-ANNUAL STATEMENTS

The Board of Aldermen shall semi-annually each year, at times to be set by the Board of Aldermen, make out and spread upon their records a full and detailed account and statement of the receipts and expenditures and indebtedness of the City for the half year ending with the last day of the month immediately preceding the date of such report, which account and statement shall be published in some newspaper in the City.

SECTION 110.110: NO MONEY OF CITY TO BE DISBURSED UNTIL STATEMENT IS PUBLISHED—PENALTY

In the event the financial statement of the City is not published as required by Section 110.100, the Treasurer of the City shall not pay out any money of the City on any warrant or order of the Board of Aldermen after the end of the month in which such financial statement should have been published until such time as such financial statement is published. Any Treasurer violating the provisions of this Section shall be deemed guilty of a ordinance violation.

SECTION 110.120: BOARD MAY COMPEL ATTENDANCE OF WITNESSES—MAYOR TO ADMINISTER OATHS

The Board of Aldermen shall have power to compel the attendance of witnesses and the production of papers and records relating to any subject under consideration in which the interest of the City is involved and shall have power to call on the proper officers of the City, or of the County in which such City is located, to execute such process. The officer making such service shall be allowed to receive therefor such fees as are allowed by law in the Circuit Court for similar services, to be paid by the City. The Mayor or Acting President of the Board of Aldermen shall have power to administer oaths to witnesses.

SECTION 110.130: MAYOR TO SIGN COMMISSIONS

The Mayor shall sign the commissions and appointments of all City Officers elected or appointed in the City and shall approve all official bonds unless otherwise prescribed by ordinance.

SECTION 110.140: MAYOR SHALL HAVE THE POWER TO ENFORCE LAWS

The Mayor shall be active and vigilant in enforcing all laws and ordinances for the government of the City, and he/she shall cause all subordinate officers to be dealt with promptly for any neglect or violation of duty; and he/she is hereby authorized to call on every male inhabitant of the City over eighteen (18) years of age and under fifty (50) to aid in enforcing the laws.

SECTION 110.150: MAYOR—COMMUNICATIONS TO BOARD

The Mayor shall, from time to time, communicate to the Board of Aldermen such measures as may, in his/her opinion, tend to the improvement of the finances, the Police, health, security, ornament, comfort and general prosperity of the City.

SECTION 110.160: MAYOR MAY REMIT FINE—GRANT PARDON

The Mayor shall have power to remit fines and forfeitures and to grant reprieves and pardons for offenses arising under the ordinances of the City; but this Section shall not be so construed as to authorize the Mayor to remit any costs which may have accrued to any officer of said City by reason of any prosecution under the laws or ordinances of such City.

ARTICLE II. BOARD OF ALDERMEN MEETINGS**SECTION 110.170: REGULAR MEETINGS**

The Board of Aldermen of the City of Mount Vernon, Missouri, shall meet in regular session in the City Hall at 7:00 P.M. on the 2nd Tuesday of each month. (Ord. No. 1.213 §1, 8-27-02)

SECTION 110.180: SPECIAL MEETINGS

Special meetings may be called by the Mayor or by any three (3) members of the Board by written request filed with the City Clerk who shall thereupon prepare a notice of such special meeting in conformance with Chapter 145, Open Meetings and Records Policy, of this Code.

SECTION 110.190: QUORUM MUST BE PRESENT

At the hour appointed, the Mayor, or in his/her absence the Acting President of the Board of Aldermen, shall call the Board to order, the Clerk shall call the roll of members and announce whether or not a quorum is present. Five (5) members of the Board of Aldermen shall constitute a quorum. The Mayor shall be counted as a member. If a quorum not be present, a smaller number may lawfully adjourn the meeting from day to day until a quorum is present.

SECTION 110.200: RULES FOR GOVERNING

The Board, in its deliberations, shall be governed by Robert's Rules of Order.

CHAPTER 115: CITY OFFICIALS

ARTICLE I. GENERAL PROVISIONS

SECTION 115.010: ELECTIVE OFFICERS—TERMS

The following officers shall be elected by the qualified voters of the City and shall hold office for the term of two (2) years, except as otherwise provided in this Section, and until their successors are elected and qualified, to wit: Mayor and Board of Aldermen.

SECTION 115.020: APPOINTMENT OF CITY OFFICIALS

The Mayor, with the approval of the majority of the Board of Aldermen, shall have the power to appoint the Fire Chief, Director of Public Works, Chief of Police, City Collector, a Treasurer, a City Counselor, a City Prosecuting Attorney and such other officers as he/she may be authorized by ordinance to appoint at the first (1st) regular meeting of said Board of Aldermen in May after his/her election and qualification or as soon thereafter as he/she may deem proper, which said officers may hold their said respective offices for a term of one (1) year and until their successors are appointed and qualified. The offices of City Counselor and City Prosecuting Attorney may be separate and distinct and the appointees thereof shall be duly licensed attorneys at law. (Ord. No. 1.17 §8, 6-7-55; Ord. No. 1.60 §1, 1-17-74)

SECTION 115.030: REMOVAL OF OFFICERS

Except as stated in Section 115.150, the Mayor may, with the consent of a majority of all the members elected to the Board of Aldermen, remove from office, for cause shown, any elective officer of the City, such officer being first given opportunity, together with his/her witnesses, to be heard before the Board of Aldermen sitting as a Board of Impeachment. Any elective officer, including the Mayor, may in like manner, for cause shown, be removed from office by a two-thirds ($\frac{2}{3}$) vote of all members elected to the Board of Aldermen, independently of the Mayor's approval or recommendation. The Mayor may, with the consent of a majority of all the members elected to the Board of Aldermen, remove from office any appointive officer of the City at will, and any such appointive officer may be so removed by a two-thirds ($\frac{2}{3}$) vote of all the members elected to the Board of Aldermen, independently of the Mayor's approval or recommendation. The Board of Aldermen may pass ordinances regulating the manner of impeachments and removals.

SECTION 115.040: OFFICERS TO BE VOTERS AND RESIDENTS—EXCEPTIONS

All officers elected to offices or appointed to fill a vacancy in any elective office under the City Government shall be voters under the laws and Constitution of this State and the ordinances of the City except that appointed officers need not be voters of the City. No person shall be elected or appointed to any office who shall at the time be in arrears for any unpaid City taxes or forfeiture or defalcation in office. All officers, except appointed officers, shall be residents of the City.

SECTION 115.050: OFFICERS' OATH—BOND

Every officer of the City and his/her assistants and every Alderman, before entering upon the duties of his/her office, shall take and subscribe to an oath or affirmation before some court of record in the County, or the City Clerk, that he/she possesses all the qualifications prescribed for his/her office by law; that he/she will support the Constitution of the United States and of the State of Missouri, the provisions of all laws of this State affecting Cities of this class, and the ordinances of the City, and faithfully demean himself/herself while in office; which official oath or affirmation shall be filed with the City Clerk. Every officer of the City, when required by law or ordinance, shall, within fifteen (15) days after his/her appointment or election, and before entering upon the discharge of the duties of his/her office, give bond to the City in such sum and with such sureties as may be designated by ordinance, conditioned upon the faithful performance of his/her duty, and that he/she will pay over all monies belonging to the City, as provided by law, that may come into his/her hands. If any person elected or appointed to any office shall fail to take and subscribe such oath or affirmation or to give bond as herein required, his/her office shall be

deemed vacant. For any breach of condition of any such bond, suit may be instituted thereon by the City, or by any person in the name of the City, to the use of such person.

SECTION 115.060: SALARIES FIXED BY ORDINANCE

The Board of Aldermen shall fix the compensation of all the officers and employees of the City by ordinance. The salary of an officer shall not be changed during the time for which he/she was elected or appointed.

SECTION 115.070: VACANCIES IN CERTAIN OFFICES—HOW FILLED

If a vacancy occurs in any elective office, the Mayor or the person exercising the duties of the Mayor shall cause a special meeting of the Board of Aldermen to convene where a successor to the vacant office shall be selected by appointment by the Mayor with the advice and consent of a majority of the remaining members of the Board of Aldermen. If the vacancy is in the office of Mayor, nominations of a successor may be made by any member of the Board of Aldermen and selected with the consent of a majority of the members of the Board of Aldermen. The Board of Aldermen may adopt procedures to fill vacancies consistent with this Section. The successor shall serve until the next regular municipal election. If a vacancy occurs in any office not elective, the Mayor shall appoint a suitable person to discharge the duties of such office until the first (1st) regular meeting of the Board of Aldermen thereafter, at which time such vacancy shall be permanently filled.

SECTION 115.080: POWERS AND DUTIES OF OFFICERS TO BE PRESCRIBED BY ORDINANCE

The duties, powers and privileges of officers of every character in any way connected with the City Government, not herein defined, shall be prescribed by ordinance. Bonds may be required of any such officers for faithfulness in office in all respects.

ARTICLE II. CITY CLERK**SECTION 115.090: CITY CLERK—ELECTION—DUTIES**

The Board of Aldermen shall elect a Clerk for such Board, to be known as "the City Clerk", whose duties and term of office shall be fixed by ordinance. Among other things, the City Clerk shall keep a journal of the proceedings of the Board of Aldermen. He/she shall safely and properly keep all the records and papers belonging to the City which may be entrusted to his/her care; he/she shall be the general accountant of the City; he/she is hereby empowered to administer official oaths and oaths to persons certifying to demands or claims against the City.

ARTICLE III. CITY ADMINISTRATOR**SECTION 115.100: OFFICE OF CITY ADMINISTRATOR**

There is hereby created and established the office of City Administrator for the City of Mount Vernon, Missouri. (Ord. No. 1.183 §1, 6-17-97)

SECTION 115.110: APPOINTMENT AND TENURE

A qualified person shall be appointed City Administrator for the City of Mount Vernon by the Mayor; such appointment shall be approved by a majority of the Board of Aldermen. The person so appointed shall serve for an indefinite term. (Ord. No. 1.183 §2, 6-17-97)

SECTION 115.120: QUALIFICATIONS

The person appointed to the office of City Administrator shall be at least twenty-five (25) years of age at the time of the effective date of such appointment and shall be a graduate of an accredited university or college majoring in public or municipal administration or shall have the equivalent qualifications and experience in financial, administration and/or public relations fields. (Ord. No. 1.183 §3, 6-17-97)

SECTION 115.130: BOND

The City Administrator, before entering upon the duties of his/her office, shall file with the City a bond in the amount of fifty thousand dollars (\$50,000.00); such bond shall be approved by the Board of Aldermen and such bond shall insure the City of Mount Vernon for the faithful and honest performance of the duties of the City of Mount Vernon and for rendering a full and proper account to the City of Mount Vernon for funds and property which shall come into the possession or control of the City Administrator. The cost of such bond shall be paid by the City of Mount Vernon; however, should the City Administrator be covered by a blanket bond to the same extent, such individual bond shall not be required. (Ord. No. 1.183 §4, 6-17-97)

SECTION 115.140: COMPENSATION

The City Administrator shall receive such compensation as may be determined from time to time by the Board of Aldermen and such compensation shall be payable semi-monthly. (Ord. No. 1.183 §5, 6-17-97)

SECTION 115.150: REMOVAL OF CITY ADMINISTRATOR

The City Administrator shall serve at the pleasure of the appointing authority. The Mayor, with the consent of a majority of the Board of Aldermen, may remove the City Administrator from office at will, and such City Administrator may also be removed by a (local preference) vote of the Board of Aldermen independently of the Mayor's approval or disapproval. If requested, the Mayor and Board of Aldermen shall grant the City Administrator a public hearing within thirty (30) days following notice of such removal. During the interim, the Mayor, with the approval of a majority of the Board of Aldermen or by (local preference) vote of the Board of Aldermen without the Mayor's approval, may suspend the City Administrator from duty but shall continue his/her salary for two (2) calendar months following the final removal date, provided however, that if the City Administrator shall be removed for acts of dishonesty or acts of moral turpitude, such salary shall not be continued. (Ord. No. 1.183 §6, 6-17-97)

SECTION 115.160: DUTIES

- A. *Administrative Office.* The City Administrator shall be the Chief Administrative Assistant to the Mayor and as such shall be the administrative officer of the City Government. Except as otherwise specified by ordinance or by the law of the State of Missouri, the City Administrator shall coordinate and generally supervise the operation of all departments of the City of Mount Vernon.
- B. *Purchasing.* The City Administrator shall be the purchasing agent for the City of Mount Vernon, and all purchases shall be made under his/her direction and supervision, and all such purchases shall be made in accordance with the City budget approved by the Board of Aldermen.
- C. *Budget.* The City Administrator shall be the Budget Officer of the City of Mount Vernon and shall assemble estimates of the financial needs and resources of the City for each ensuing year and shall prepare a program of activities within the financial power of the City, embodying in it a budget document with proper supporting schedules and an analysis to be proposed to the Mayor and Board of Aldermen for their final approval.
- D. *Financial Reports.* The City Administrator shall make monthly reports to the Mayor and Board of Aldermen relative to the financial condition of the City. Such reports shall show the financial condition of the City in relation to the budget.
- E. *Semi-Annual Report.* The City Administrator shall prepare and present to the Mayor and Board of Aldermen a semi-annual report of the City's affairs, including in such report a summary of reports of department heads and such other reports as the Mayor and Board of Aldermen may require.
- F. *Personnel System.* The City Administrator shall act as the Personnel Officer of the City. The City Administrator, after consultation with department heads, shall recommend advancements and appropriate pay increases subject to approval of the Mayor and Board of Aldermen. The City Administrator shall make recommendation of appointment and removal of all City employees subject to approval of the Mayor and Board of Aldermen.

- G. *Policy Formulation.* The City Administrator shall recommend to the Mayor and Board of Aldermen adoption of such measures as he/she may deem necessary or expedient for the health, safety or welfare of the City or for the improvement of administrative services for the City.
- H. *Board Of Aldermen Agenda.* The City Administrator shall submit to the Mayor and Board of Aldermen a proposed agenda for each Council meeting at least forty-eight (48) hours before the time of the regular Council meeting.
- I. *Boards And Committees.* The City Administrator shall work with all City boards and committees to help coordinate the work of each.
- J. *Attend Board Of Aldermen Meetings.* The City Administrator shall attend all meetings of the Board of Aldermen.
- K. *Bid Specifications.* The City Administrator shall supervise the preparation of all bid specifications for services and equipment and receive sealed bids for presentation to the Board of Aldermen.
- L. *State And Federal Aid Programs.* The City Administrator shall coordinate Federal and State programs which may have application to the City of Mount Vernon.
- M. *Conference Attendance.* The City Administrator shall attend State and regional conferences and programs applicable to his/her office and the business of the City of Mount Vernon whenever such attendance is directed and approved by the Board of Aldermen and Mayor.
- N. *Press Releases.* The City Administrator shall be responsible for keeping the public informed of the purposes and methods of City Government through local news media.
- O. *Record Keeping.* The City Administrator shall keep full and accurate records of all actions taken by him/her in the course of his/her duties, and he/she shall safely and properly keep all records and papers belonging to the City of Mount Vernon and entrusted to his/her care; all such records shall be and remain the property of the City of Mount Vernon and be open to inspection by the Mayor and Board of Aldermen at all times.
- P. *Miscellaneous.* In addition to the foregoing duties, the City Administrator shall perform any and all other duties or functions prescribed by the Mayor and Board of Aldermen. (Ord. No. 1.183 §7, 6-17-97)

SECTION 115.170: POWERS

- A. *City Property.* The City Administrator shall have responsibility for all real and personal property of the City of Mount Vernon. He/she shall have responsibility for all inventories of such property and for the upkeep of all such property. Personal property may be sold by the City Administrator only with approval of the Board of Aldermen. Real property may be sold only with the approval of the Board of Aldermen by resolution or ordinance.
- B. *Set Administrative Policies.* The City Administrator shall have the power to prescribe such rules and regulations as he/she shall deem necessary or expedient for the conduct of administrative agencies subject to his/her authority, and he/she shall have the power to revoke, suspend or amend any rule or regulation of the administrative service except those prescribed by the Board of Aldermen.

- C. *Coordinate Departments.* The City Administrator shall have the power to coordinate the work of all the departments of the City and at times of an emergency shall have authority to assign the employees of the City to any department where they are needed for the most effective discharge of the functions of City Government.
- D. *Investigate And Report.* The City Administrator shall have the power to investigate and to examine or inquire into the affairs or operation of any department of the City under his/her jurisdiction and shall report on any condition or fact concerning the City Government requested by the Mayor or Board of Aldermen.
- E. *Coordinate Officials.* The City Administrator shall have the power to overrule any action taken by a department head and may supersede him/her in the functions of his/her office.
- F. *Appear Before The Board Of Aldermen.* The City Administrator shall have the power to appear before and address the Board of Aldermen at any meeting.
- G. At no time shall the duties or powers of the City Administrator supersede the action by the Mayor and Board of Aldermen. (Ord. No. 1.183 §8, 6-17-97)

SECTION 115.180: INTERFERENCE BY MEMBERS OF THE BOARD OF ALDERMEN

No member of the Board of Aldermen shall directly interfere with the conduct of any department or duties of employees subordinate to the City Administrator except at the express direction of the Board of Aldermen or with the approval of the City Administrator. (Ord. No. 1.183 §9, 6-17-97)

ARTICLE IV. CITY COUNSELOR AND PROSECUTING ATTORNEY

SECTION 115.190: OFFICE OF CITY COUNSELOR

The City Counselor shall advise the Board of Aldermen or any City Officer, when so requested, on any legal question in relation to any business of the City and shall draft ordinances, resolutions and orders when requested to do so by the Board of Aldermen or Mayor and shall represent the City in any civil litigation in which the City is a party. (Ord. No. 1.59 §1, 1-17-74)

SECTION 115.200: OFFICE OF CITY PROSECUTING ATTORNEY

The City Prosecuting Attorney shall prosecute all criminal cases in which the City is a party and shall draft and file all necessary information against any person or persons who have violated any ordinances of the City and shall prosecute the same on behalf of the City. (Ord. No. 1.59 §2, 1-17-74)

SECTION 115.210: WHEN ABSENT–VACANCY–PROCEDURE

If at any time the City Counselor or Prosecutor shall be temporarily absent or unable to perform the duties of his/her office, the Mayor or acting Mayor shall appoint a competent attorney to attend to such business, who shall receive the same compensation for his/her services as are due the City Counselor and City Prosecuting Attorney for like services and if the City Counselor or City

Prosecuting Attorney shall die, resign or for any cause whatever become unable to perform the duties of his/her office, then the vacancy thus caused may be filled for the unexpired term of his/her office in like manner as when the City Counselor or City Prosecuting Attorney is regularly appointed. (Ord. No. 1.59 §3, 1-17-74)

ARTICLE V. MISCELLANEOUS PROVISIONS

SECTION 115.220: OFFICERS TO REPORT RECEIPTS AND EXPENDITURES

It shall be the duty of all the officers of the City to report annually to the Board of Aldermen, such reports to embrace a full statement of the receipts and expenditures of their respective offices and such other matters as may be required by the Board of Aldermen by ordinance, resolution or otherwise.

SECTION 115.230: MAYOR OR BOARD MAY INSPECT BOOKS AND RECORDS OF OFFICERS

The Mayor or Board of Aldermen shall have power, as often as he/she or they may deem it necessary, to require any officer of the City to exhibit his/her accounts or other papers or records and to make report to the Board of Aldermen, in writing, touching any matter relating to his/her office.

CHAPTER 117: PERSONNEL POLICY AND REGULATIONS

ARTICLE I. PERSONNEL POLICY

SECTION 117.010: INTRODUCTION

- A. The City of Mount Vernon is dedicated to achieving primarily one (1) common goal. That goal is to provide efficient and economical municipal services to the citizens. This goal can be achieved only through mutual cooperation and understanding. City employees are typically the first and, often times, the only contact citizens may have with its government. Therefore, it is important that employees represent that government in a professional, efficient and courteous manner. Personnel policies help to establish a consistent standard of conduct for employees as well as inform them about various benefits offered by the City.
- B. The policy of the City of Mount Vernon, Missouri, relating to personnel is intended to establish certain rules, regulations and other administrative provisions so that City employees are treated fairly and so that proper consideration is given to the best interests of the citizens of Mount Vernon, Missouri.
- C. Each employee has certain job responsibilities within their respective department; however, they must be concerned with total City problems. From time to time it may be necessary to assist in different departments as needed and whenever possible. Performing the assigned duties in an efficient manner is only part of the responsibility. Interest in the work and a willing, cooperative attitude toward serving the citizens of Mount Vernon is equally important. All City employees are expected to follow City ordinances, personnel rules and/or departmental regulations. (Ord. No. 1.204 §1, 5-8-01)

SECTION 117.020: DEFINITIONS

As used in this Chapter, the following terms shall have these prescribed meanings:

AMERICANS WITH DISABILITIES ACT: The Americans With Disabilities Act (ADA) prohibits discrimination against any employee or applicant who could, with or without a reasonable accommodation of that disability, perform a job. The act also requires an employer to provide an accommodation, such as modified work hours or duties or special equipment, if such an accommodation is not "unduly burdensome" and is necessary to help the employee perform his/her job.

BUSINESS DAYS: The calendar days exclusive of Saturdays, Sundays and legal holidays

DAYS: Calendar days unless specified otherwise.

DEMOTION: The movement of an employee from one job category to another having a lower maximum rate of pay and/or less responsibility.

EMPLOYMENT DISCRIMINATION: Employment discrimination is prohibited by Federal law and by additional laws enacted by most States. Discrimination on the basis of race, national origin, gender, age, disability and religion is illegal under Federal law. Some cities also bar discrimination on other grounds, such as marital or veteran status.

FAMILY AND MEDICAL LEAVE ACT (FMLA): The Family and Medical Leave Act requires employers to offer up to twelve (12) weeks of unpaid leave to an employee because of his/her own serious health condition, the birth or adoption of a child, or the need to care for an ill relative. The employer is required, in most circumstances, to reinstate the employee to his/her former position once the leave is over.

NORMAL WORKWEEK: The number of employee's regularly scheduled paid hours of work averaged over the fiscal year.

PENSIONS, BENEFITS AND COMPENSATIONS: Pensions benefits and compensation are governed by an array of laws, including the Employee Retirement Income Security Act, the Fair Labor Standards Act and laws such as COBRA, which requires an employer to continue some forms of employee insurance coverage for a period of time after the employee has been terminated. Some employment benefits, such as Social Security, unemployment compensation and Workers' Compensation are also mandated by State or Federal law.

PROBATIONARY EMPLOYEE: An employee working in a job category who has not completed the probationary period.

PROMOTION: The advancement of an employee from one job category to another having a higher maximum base of pay and/or a higher level of responsibility.

REGULAR EMPLOYEE: An employee filling a position who has successfully completed the probationary period.

SEXUAL HARASSMENT: Sexual harassment is a form of discrimination that is barred by Federal law and laws in most States. Sexual harassment includes creating a "hostile or offensive" work environment by tolerating offensive language or pictures or unwelcome sexual conduct directed at an employee and requiring an employee to submit to unwelcome sexual advances in order to remain employed or receive some job benefit.

SUSPENSION: The temporary separation of an employee from the City service for disciplinary reasons with loss of pay.

WAGE AND HOUR LAWS: Wage and hour laws include the Fair Labor Standard Act, which sets the Federal minimum wage and requires that overtime compensation be paid to some employees, and many State laws which may impose even higher requirements than Federal law. Wage and hour laws also govern whether and when children may work. (Ord. No. 1.204 §1, 5-8-01)

SECTION 117.030: PURPOSE, APPLICATION, RESPONSIBILITIES

- A. *Purpose.* The purpose of this policy is to outline a general guideline for a personnel system for the employees. Personnel policies are developed to promote efficiency and economy in government, to reward merit, to provide for the harmonious and impartial settlement of grievances, and to develop and maintain good morale and confidence among employees. This policy is adopted as guidance for the administration and it is not intended to be used as or construed as an employee handbook. This policy is not intended to be construed as an express or implied contract creating protected property or liberty rights or contractual conditions of employment or duties of the employer. This policy repeals the provisions currently provided in the Mount Vernon Code. This policy does not supersede applicable Federal and State Statutes pertaining to employment.

- B. *Application.* Personnel policies shall apply uniformly to all persons employed by or seeking employment with the City of Mount Vernon unless otherwise exempted by action of the Board of Aldermen. In certain cases, Missouri Statutes or provisions in the Mount Vernon City Code give specific authority concerning personnel matters and other issues presented in this manual to the governing boards of City-related entities. In such cases, these entities are exempted from any provisions in this policy which contradict such authority.
- C. *Responsibilities.*
1. *Department heads.* It is the responsibility of the department heads to ensure that approved personnel policies are applied uniformly and consistently to all employees of their departments. Department heads shall develop and maintain internal operating procedures that list policies not included in the City's comprehensive personnel policy. Department heads shall maintain a written record of all disciplinary actions taken by the department and provide the original of such records to the records custodian.
 2. *City of Mount Vernon.* The City of Mount Vernon will provide legal assistance, legal defense and full indemnity by insurance or otherwise for its Administrators, elected and/or appointed officials, department managers and supervisory personnel for all employment or related actions which are taken within the scope of their authorities and duties and which are in compliance with approved personnel policies. (Ord. No. 1.204 §1(010), 5-8-01)

SECTION 117.040: EMPLOYMENT

The City Administrator and Chief of Police shall, respectively within their departments, upon authorization of the Board of Aldermen:

1. Place advertisements for job openings on departmental bulletin boards and in a local newspaper of general circulation. All advertisements must include the statement that the City is an equal opportunity employer.
2. Interview candidates and conduct a valid, job-related employment interview.
3. Oversee the conduct of reference checks and specific tests if required for the position.
4. Hiring procedures shall include the application of handicapped accessibility standards, when applicable, e.g., readers, braille, audio cassette, written materials, sign language interpreters and personal assistance for manual impairments.
5. Recommend to the Board of Aldermen a person to fill the job opening from the list of candidates.
6. Confirm job offer in writing and coordinate the hiring procedure with the office of City Clerk.
7. Create and maintain written job descriptions for each job category in the department.
8. Create and maintain internal operating procedures which include personnel-related policies not listed in the City's comprehensive personnel policy.
9. The physician (or person administering a physical exam) shall be notified of ADA regulations.

They are "prohibited from making inquiries as to the nature and extent or severity of disabilities except as they are job-related".

- .10. All departments must hold their social and recreational activities in a location that is accessible to all employees. (Ord. No. 1.204 §1(020), 5-8-01)

SECTION 117.050: EQUAL EMPLOYMENT OPPORTUNITY POLICY

- A. The City of Mount Vernon prohibits, forbids and does not tolerate discrimination against anyone on the basis of race, color, religion, sex, age, national origin, veteran status, disability, ancestry, marital status or political affiliation. All employees, managers, supervisors and job applicants are guaranteed the same employment opportunities. No person or employee, no matter his/her title or position, has the authority, whether expressed, actual, apparent or implied, to discriminate against another employee of the City of Mount Vernon.
- B. The City of Mount Vernon will not discriminate against any employee, manager, supervisor or applicant on the basis of race, color, religion, sex, age, national origin, veteran status, disability, ancestry, marital status or political affiliation. The City of Mount Vernon's supervisors and/or managers will make all recruitment, placement, selection, training and layoff decisions based solely on job-related qualifications and abilities without regard to race, color, religion, sex, age, national origin, veteran status or disability.
- C. The City of Mount Vernon will administer and conduct all personnel procedures including compensation, benefits, discipline, training, recreational and social activities and safety and health programs without regard to an individual's race, color, religion, sex, age, national origin, veteran status, disability, ancestry, marital status or political affiliation.
- D. The City of Mount Vernon prohibits verbal, physical or visual conduct that belittles or demeans any individual on the basis of race, color, religion, sex, age, national origin, veteran status, disability, ancestry, marital status or political affiliation.
- E. Qualification for employment is based on merit, knowledge and ability, training and experience in relation to the actual job requirements. No appointments are made on the basis of favoritism, political or personal influence or any other such means.
- F. There is an increasing realization among Americans of the need to assure equal employment opportunities for all citizens. Various laws applicable to employers prohibit discrimination because of race, creed, color, national origin, sex, age or disability. The City of Mount Vernon is determined to comply fully with both the spirit and the provisions of these laws.
 - 1. *Equal employment opportunity policy statement.* Listed below is a policy statement concerning the City's equal employment opportunity position:

**POLICY STATEMENT
EQUAL EMPLOYMENT OPPORTUNITY**

It is the policy of the City of Mount Vernon to provide equal employment opportunity to all qualified persons regardless of race, color, sex, religion, veteran status, national origin, ancestry, age, marital status, disability or political affiliation. Included in the policy is the prohibition of discrimination in employment, upgrading, demotion, transfer, recruitment, advertising, layoff,

termination, rates of pay or other forms of compensation or fringe benefit, selection for training and development, and participation in a contractual or other arrangement or relationship.

2. *Notices.* The City shall post Equal Opportunity Employer notices in an accessible format to applicants, employees and members. Equal Opportunity Employer notices must be posted at the place of employment, stated on application forms and verbally stated before the interview process.
3. *Contractual arrangements.* Any departments that participate in a contractual or other arrangement or relationship with another business organization, etc. must notify that group that the department "is an EEO and doesn't discriminate on the basis of sex, color, religion, national origin, marital status, race, age or disability".
4. *Disability discrimination.*
 - a. The City of Mount Vernon prohibits, forbids and does not tolerate discrimination against any qualified individual with a disability. A qualified individual with a disability is anyone who can perform the essential functions of the job with or without reasonable accommodation for his/her disability.
 - b. All qualified individuals with a disability are guaranteed the same employment opportunities as other employees or applicants. No person or employee, no matter his/her title or position, has the authority, whether expressed, actual, apparent or implied, to discriminate against a qualified employee or applicant with a disability.
 - c. The City of Mount Vernon will make all decisions concerning recruitment, placement, selection, training, hiring, advancement, discharge or other terms, conditions or privileges of employment based on job-related qualifications and abilities.
 - d. The City of Mount Vernon prohibits any verbal, physical or visual conduct that belittles or demeans any qualified individual with a disability.
5. *Reasonable accommodations/undue hardship.*
 - a. The City of Mount Vernon is obligated under ADA to make "reasonable accommodations" that would permit an employee with a disability to perform the duties of the job unless providing such accommodations would result in "undue hardship" on the City.
 - b. Reasonable accommodations may include making existing employee facilities accessible to and usable by employees with disabilities, job restructuring, modification of equipment or modification of work schedules.
 - c. A disability is a physical or mental impairment that substantially limits one (1) or more major life activities which may include caring for oneself, walking, seeing or speaking. Any disabled employee or applicant who is otherwise qualified for a job but for his/her disability will be accommodated for his/her disability, provided the accommodation is reasonable. What is considered a reasonable accommodation will be based on a case-by-case analysis.
 - d. To make an accommodation request, the individual should communicate his/her request in accordance with Policy No. 300 "Employee Appeals/Grievance Procedure and Chain of Command".

- e. *"Undue hardship"* is defined as an action requiring significant difficulty or expense. Each applicant will submit a statement in writing to the department head of what position they are seeking and what would be necessary to "reasonably accommodate" that individual.
 - f. The department head will review the applicant's statement and decide if the department would be able to accommodate the applicant or if the action would require a significant difficulty or expense when considered in light of the factors set forth in Section 101 (10) (B) of the ADA law, such as the nature and cost of the accommodation, the overall financial resources of the department and the type of operations of the department.
 - g. All department heads must document decisions not to hire or promote because of "undue hardship".
 - h. All departments must adopt a grievance procedure that incorporates due process standards and that provide for the prompt/equitable solution of complaints of discrimination against an individual with a disability, including job applicants, employees, customers/visitors.
6. *Procedure for reporting discrimination.* If a City employee has a question, problem or complaint regarding a violation of this policy or discrimination in general, that employee must communicate his/her concerns in accordance with Policy No. 300, "Employee Appeals/Grievance Procedure and Chain of Command". (Ord. No. 1.204 §1(030), 5-8-01)

SECTION 117.060: AT WILL EMPLOYMENT

- A. Unless modified by law, all employees shall have employment at the pleasure of the City and hold their position until the employee or the City shall desire to terminate the connection, in which event the dissatisfied party will have the right to be relieved of further responsibility to the other. By creating this policy, the City does not relinquish or waive its entitlement to discharge employees at will.
- B. This personnel policy manual is not a contract, express or implied, guaranteeing employment for any specific duration. Either the employee or the City of Mount Vernon may terminate this relationship at any time, for any reason, with or without cause or notice. No manager, supervisor or representative of the City of Mount Vernon, other than the Board of Aldermen, has the authority to enter into any agreement with an employee for employment for any specified period or to make any promises or commitments contrary to the foregoing. Further, any employment agreement entered into by the Board of Aldermen shall not be enforceable unless it is in writing. (Ord. No. 1.204 §1(040), 5-8-01)

SECTION 117.070: NEPOTISM

- A. Relatives of the Board of Aldermen, the Mayor and department heads may not be employed in the City, except that any employee whose relative later takes office as Mayor or Board of Aldermen shall not be affected.
- B. Immediate family relatives include parents, children, spouse, brothers, sisters, in-laws or any blood relative residing in the employee's home.
- C. If two (2) employees are or become related while they are employed by the City, they both may continue to be employed by the City unless they work in the same department and one is in a

supervisory relationship to the other. If the affected employees work in the same department and one is in a supervisory relationship to the other, and if a position of equal grade and pay is open in another department for which one (1) of the affected employees is qualified, that employee will be given the opportunity to transfer to the open position. If no transfer position becomes available within ninety (90) days from the date the employees become related, the affected employees must choose which one of them will resign from employment with the City and if one (1) of the employees does not submit a resignation within five (5) working days thereafter, the employee with the least amount of service with the City will be discharged. (Ord. No. 1.204 §1(050), 5-8-01)

SECTION 117.080: PROBATIONARY PERIOD

- A. *Purpose.* This period is used to determine whether the employment relationship should continue. If the employee is dissatisfied with the City, the employee may leave with neither advance notice nor cause. If the City is dissatisfied, it may similarly terminate the relationship. If it is determined by the City in its sole discretion that a satisfactory performance level cannot be achieved through a reasonable amount of training and counseling, the employee will be immediately released.
- B. *Duration.* The probationary or working-test period for all employees shall be six (6) months. Upon satisfactory completion of the trial period, the employee moves to regular status and is subject to the standard City personnel policies and benefits.
- C. *Benefits During Probationary Period.* The City's standard benefit program becomes effective after satisfactory completion of the probationary period.
- D. *Appeal.* During the probationary period, an employee does not have the right to appeal a dismissal or disciplinary action. At any time during the probationary period the City Administrator with advise and consent of the Board of Aldermen may remove an employee if in his/her opinion there is an indication that such employee is unable or unwilling to perform the duties of the position satisfactorily or that the employee's habits and dependability do not merit continuance in the service of the City. (Ord. No. 1.204 §1(060), 5-8-01)

SECTION 117.090: PERFORMANCE APPRAISAL

It shall be the responsibility of the City Administrator to oversee the evaluation of each employee annually. Exceptions will be appointed staff and Police personnel. The Chief of Police will evaluate each Police Officer annually and the Mayor and the Board of Aldermen shall evaluate each appointed position and the City Administrator. These evaluations shall be made available to the Board of Aldermen in executive session and they shall become part of the individual's personal file. (Ord. No. 1.204 §1(070), 5-8-01)

SECTION 117.100: EMPLOYEE TRAINING

The department heads shall develop and promote programs for employee training, safety and moral. (Ord. No. 1.204 §1, 5-8-01)

SECTION 117.110: REGULAR WORKWEEK/BREAKS/LUNCH BREAKS/ACTIVITY ACCESSIBILITY

- A. The normal workweek shall consist of five (5) eight (8) hour days (forty (40) hours per week). This time shall be devoted to work as an employee of the City of Mount Vernon. Work at any type of employment on City time, other than work assigned as an employee of the City of Mount Vernon, is prohibited. Use of City facilities and/or equipment for outside employment is prohibited. "Outside employment" shall include, but not be limited to, sales of any type of merchandise not manufactured or produced by the City of Mount Vernon.
- B. Time off for meals shall not be considered part of the eight (8) hours; however, two (2) fifteen (15) minute breaks may be granted within the eight (8) hours. The fifteen (15) minute breaks are actual time not working on the job.
- C. *Breaks.* The time and scheduling of on-duty breaks shall be determined by departmental internal operating procedures.
- D. *Lunch Break.* The department head shall establish the length of the lunch break and the time of day it shall be taken.
- E. The Fair Labor Standards Act (F.L.S.A.) does not require that employees be given rest periods, but if rest periods are provided, they must be counted as hours worked if they last twenty (20) minutes or less. Coffee and snack breaks are compensable rest periods and cannot be excluded from hours worked as meal periods. The compensability of rest periods that last longer than twenty (20) minutes depends upon an employee's freedom during the breaks.
- F. *Accessible Activities.* All departments must hold their social and recreational activities in a location that is accessible to all employees. (Ord. No. 1.204 §1(080), 5-8-01)

SECTION 117.120: OVERTIME (FAIR LABOR STANDARDS ACT)

The City's overtime pay policy will conform to overtime provisions of the Federal Fair Labor Standards Act. Overtime pay for employees includes the following principal elements:

- .1. Non-exempt employees will be paid straight time for all approved hours worked through forty (40) in one (1) week.
- .2. Non-exempt employees will be paid one and one-half (1½) times their regular rate for approved overtime hours. The granting of compensatory time, in lieu of payment for overtime hours, may be permitted. (Ord. No. 1.204 §1(090), 5-8-01)

SECTION 117.130: PART-TIME, TEMPORARY OR SEASONAL EMPLOYEES

- A. *Part-Time Employees.* "Part-time employees" are defined as employees regularly scheduled on an annual basis to work one thousand five hundred (1,500) hours or less. Eligible employees (with the exception of hospital employees and firefighters) with one thousand five hundred (1,500) or more hours annual employment will be covered by the Missouri Local Government Employees Retirement System. Employees who work less than one thousand five hundred (1,500) hours are not eligible for coverage under the City's group health plan and most other benefit programs. Such employees

should check with the City Clerk if they have questions about coverage under any specific benefit program.

- B. *Temporary Employees.* "Temporary employees" are defined as employees who are hired in a position which is scheduled to fill job requirements which occur intermittently or are created as a result of a project or program of limited duration. The anticipated time of termination is known prior to commencement of employment. Employees in this category cannot work for the City more than one thousand five hundred (1,500) hours during a calendar year.
- C. *Seasonal Employees.* Seasonal employees are hired to meet seasonal work demands in positions scheduled for a period of time less than a budget year with the anticipated date of termination known prior to commencement of employment. Employees in this category cannot work for the City more than one thousand five hundred (1,500) hours during a calendar year. (Ord. No. 1.204 §1(110), 5-8-01)

SECTION 117.140: VACATION

A. Vacation time is granted as follows:

- 1. *After working twelve (12) months.* One (1) week.
- 2. *After working twenty-four (24) months.* Two (2) weeks.
- 3. *After working sixty (60) months.* Three (3) weeks.
- 4. *After working one hundred eighty (180) months.* Four (4) weeks.

Any employee who has been in the employment of the City of Mount Vernon, Missouri, for a period of ten (10) years by December 31, 1989, is hereby granted four (4) weeks' vacation time. Any employee who has been in the employment of the City of Mount Vernon, Missouri, for a period of twenty (20) years is hereby granted, as a bonus, one (1) extra week of vacation that year only and also at twenty-five (25), thirty (30) and thirty-five (35) years.

- B. *Length Of Service.* Length of service is based on continuous City employment on the employee's anniversary date (date of hire).
- C. *Scheduling.* Vacation is provided as a benefit to provide the employee with a break from City employment. It is intended as an opportunity for the employee to spend time with his/her family, enjoy recreational activities and generally "recharge his/her batteries" in order to return to work more emotionally and physically rested. It is believed that under such conditions, the employee returns to work a more motivated and effective employee of the City. Vacations should be scheduled throughout the year considering both the employee's personal wishes and the necessity of continuous, efficient, City operations. Ordinarily vacations should be taken in units of a week or weeks, however, the department head may use his/her discretion in granting the duration of vacation leaves.
- D. *Holiday During Vacation.* When a regularly scheduled holiday occurs during the period of an employee's vacation, that day shall not be charged as vacation leave on the employee's record. (Ord. No. 1.204 §1(120), 5-8-01)

SECTION 117.150: HOLIDAYS

A. The following holidays shall be granted:

1. New Year's Day
2. Presidents' Day
3. Memorial Day
4. Independence Day
5. Labor Day
6. Veterans Day
7. Thanksgiving Day
8. Day following Thanksgiving
9. Christmas Day
10. Martin Luther King, Jr. Day

B. "*Holiday pay*" is defined as a benefit to all employees which provides compensation for time not worked on a holiday or additional compensation for required time worked on the holiday.

C. When any regular holiday falls on a Saturday or Sunday, the preceding Friday or following Monday shall be declared a holiday. Any employee required to work on a recognized holiday will be compensated at one and one-half (1½) their rate of pay or they may take an extra day off if taken within sixty (60) days.

D. Since the employee is not required to work on the holiday, the hours spent off the job shall not be considered as "working time" as defined by the Fair Labor Standards Act.

E. To be eligible to receive pay for an observed holiday, an employee must not have been absent without authorized leave either on the workday before or after the holiday. Any employee desiring to be absent without pay shall get permission from the department head forty-eight (48) hours in advance from the requested time off. (Ord. No. 1.204 §1(130), 5-8-01)

SECTION 117.160: BEREAVEMENT LEAVE

In the case of death of a member of employee's immediate family or spouse's immediate family (such as spouse, son, daughter, mother, father, brother, sister or grandparent), the employee may be granted funeral leave not to exceed four (4) paid working days. (Ord. No. 1.204 §1(140), 5-8-01)

SECTION 117.170: JURY LEAVE

A. An employee shall be given necessary time off without loss of pay when performing jury duty,

appearing in court as a witness in answer to a subpoena, in an official capacity in connection with the City or as an expert witness either because of professional or observed knowledge or performing emergency civilian duty in connection with national defense or as otherwise provided by law. The employee shall provide satisfactory evidence of such activity to the Board of Aldermen upon the employee's return to duty. The employee will be paid at his/her regular rate of pay when performing jury duty but must relinquish any compensation received, with the exception of payment for mileage in performance of jury duty. If an employee is involved in court in a personal case either as a plaintiff or as a defendant in a suit not resulting from his/her duties with the City, he/she may be granted leave without pay unless the employee elects to utilize any available vacation leave.

- B. It is expected the employee will provide the City with prior notice of jury duty as far in advance as possible. If released from such jury duty before the end of a normal work shift, the employee shall return to work for the remainder of the shift. The employee must provide the department head with a verification note from the Court Clerk for each day of jury duty. (Ord. No. 1.204 §1(150), 5-8-01)

SECTION 117.180: MILITARY LEAVE

- A. Employees may receive a leave of absence not to exceed fifteen (15) working days annually for participation in annual training in the National Guard or Reserve Armed Forces or called to temporary active duty. Requests for said leave must be accompanied by a copy of official orders.
- B. Regular employees entering the active military service of the United States by draft or by call to active duty through the Reserve or National Guard units, upon request, shall be granted a leave of absence without pay to extend for sixty (60) days beyond the date of discharge from active military service. At or prior to the expiration of the military leave of absence, the employee must inform the City Administrator of his/her willingness and ability to return to City employment and produce evidence of his/her honorable discharge from military service. The employee shall thereupon be returned to his/her former or comparable position, providing that he/she is capable of carrying out the duties of the position.
- C. Service personnel who are called into active duty shall be removed from the City's group health coverage. These persons will be allowed to purchase COBRA continuation coverage at the employee's expense.
- D. Employees called to active duty in response to a national emergency or war may receive an unpaid leave of absence for the duration of the national emergency or war. Requests for said leave must be accompanied by a copy of official orders. At or prior to the expiration of the military leave of absence, the employee must inform the City Administrator of his/her willingness and ability to return to City employment and produce evidence of his/her honorable discharge from military service. The employee shall thereupon be returned to his/her former or comparable position, providing that he/she is capable of carrying out the duties of the position. (Ord. No. 1.204 §1(160), 5-8-01)

SECTION 117.190: SICK LEAVE

- A. Sick leave/personal leave will be provided to all employees after probationary period at a rate of one (1) day per month to be used at employee's discretion. Unused sick/personal leave days may be accumulated to a maximum of sixty (60) days. Upon retirement, unused days may be paid up to a maximum of thirty (30) days at regular rate of pay at time of retirement.

- B. *Granting Of Additional Sick Leave.* If an employee has been regularly and continuously employed by the City of Mount Vernon, Missouri, for more than one (1) year and is diagnosed by a licensed physician selected by the Board of Aldermen of the City of Mount Vernon, Missouri, as suffering from a terminal illness or from an injury or illness for which it is anticipated that the period of recovery will exceed sixty (60) calendar days, then in that event the Board of Aldermen may, at its option and sole discretion, grant to such employee such additional sick leave as the Board determines up to a total not exceeding sixty (60) days sick leave for such illness or injury. (Ord. No. 1.204 §1(170), 5-8-01)

SECTION 117.200: UNAUTHORIZED ABSENCE

An unauthorized absence is always without pay. Examples of unauthorized absences include, but are not limited to:

- .1. Walking off the job without approval of supervisor.
- .2. Failure to notify supervisor when not reporting to work.
- .3. Over-extension of authorized leave or vacation without the approval of the department head or immediate supervisor.
- .4. Taking sick days beyond those previously earned.
- .5. Failure to notify supervisor that the employee will be late for work. (Ord. No. 1.204 §1(180), 5-8-01)

SECTION 117.210: SMOKING

Smoking and use of tobacco is prohibited in public facilities (including municipal equipment) except in designated areas. (Ord. No. 1.204 §1(190), 5-8-01)

SECTION 117.220: SAFE WORK PRACTICES

- A. *General.* All employees are required to wear appropriate personal protective gear and to follow safe work practices. Specific instructions from a supervisor regarding safety are to be followed strictly. In the event that the City requires the use of protective gear, the City will provide equipment.
- B. *Personal Protective Gear.* Employees must wear personal protective gear (including hard hats, safety vest and etc.) when performing any potentially dangerous duty. Supervisors have full authority to order the wearing of protective equipment at any time.
- C. *Carelessness Policy—No Tolerance.* The City of Mount Vernon prohibits, forbids and does not tolerate carelessness, substandard or hazardous work practices within its facility, on its property or while conducting City business.
- D. *Procedure For Reporting Careless, Hazardous Or Substandard Work Practices.* If an employee becomes aware of a careless or negligent act or behavior, he/she must report the act or behavior in accordance with Policy No. 300 "Employee Appeals/Grievance Procedure and Chain of Command". (Ord. No. 1.204 §1(200), 5-8-01)

SECTION 117.230: POLITICAL ACTIVITIES

- A. City employees, including those employed by City agencies, boards or departments, shall be limited in their political activities as follows:
1. City employees shall not be appointed, retained or dismissed on the basis of their political affiliations or activities which do not violate this Section.
 2. City employees shall not be coerced to take part in political campaigns, to solicit votes, to levy, contribute or solicit funds or support for the purpose of supporting or opposing the appointment or election of candidates for any municipal office.
 3. City employees shall not be candidates in any municipal election.
 4. No City employee shall actively advocate or oppose the candidacy of any individual for nomination or election to any municipal office, but an employee may participate in political affairs at other levels of government, provided such participation does not adversely affect the individual's performance as a City employee.
 5. Employees are encouraged to exercise their right to vote in municipal elections but shall not participate in any other way in municipal elections; provided however, City employees may participate and vote in a local political party caucus as a part of the nominating procedure for municipal candidates.
- B. Failure to comply with Subsection (A) is grounds for appropriate disciplinary action, including dismissal.
- C. No appointed officer or employee of the City shall, directly or indirectly, orally or by letter, solicit or receive or in any manner be concerned with or instrumental in soliciting or receiving any assessment, subscription or contribution for any political purpose whatever. (Ord. No. 1.204 §1(220), 5-8-01)

SECTION 117.240: HOSPITALIZATION AND LIFE INSURANCE

All full-time employees, upon completion of the probationary period, are provided with group hospital, medical and life insurance plan as approved and amended from time to time by the Board of Aldermen. Information concerning benefits and claims procedures may be obtained from the office of City Clerk. (Ord. No. 1.204 §1(230), 5-8-01)

SECTION 117.250: PHYSICAL EXAMINATIONS

- A. All prospective employees shall, prior to being employed by the City of Mount Vernon, Missouri, have a physical examination performed by a licensed physician and shall, prior to entering into such employment, present a certificate from a licensed physician stating that the prospective employee is physically able to perform the duties pertaining to the prospective employment. All full-time employees shall be required to have a physical every other year (starting the first (1st) quarter of 1989). Part-time appointed officials, including the City Attorney, City Judge, City Treasurer and employees under contract with the City, are exempt from this requirement.

- B. The pre-employment physical shall be conducted by a physician approved in advance by the City.
- C. The City shall notify the physician of Americans With Disabilities Act (ADA) regulations that state the physician is "prohibited from making inquiries as to the nature and extent or severity of disabilities except as they are job-related". (Ord. No. 1.204 §1(240), 5-8-01)

SECTION 117.260: DRESS CODE

Persons employed by the City of Mount Vernon frequently interact with the public. It is important that appropriate attire shall be worn at all times. Employees in all areas of public works may, during the summer months, wear standard length walking shorts (solid tan, khaki or navy) and City supplied "tee" shirts. Golf course employees may wear golf shirts. (Ord. No. 1.204 §1(250), 5-8-01)

SECTION 117.270: WORKERS' COMPENSATION

- A. An employee who is injured by an accident while performing assigned duties may be covered by the City's Workers' Compensation insurance. Said employee is eligible to receive medical treatment and compensation benefits as prescribed by State law. Employees must first be examined by a physician approved by the City.
- B. *Injury Management Procedure.* When an accident occurs, the first and foremost item is the care and treatment of the injured employee. Treatment of the injury must be handled on a complete and timely basis with all areas of documentation being extremely thorough. Documentation is absolutely necessary in order to have an efficient injury management program. Any variance from the program may adversely affect the loss handling and/or proper care of employees.
- C. *Reporting Procedure.* The following minimal guidelines shall be implemented following an accident occurs:
 - 1. Report all accidents immediately to supervisor for forwarding to the City Clerk.
 - 2. The employee shall complete the Employee Incident/Injury Report and send it directly to the City Clerk's Office, 319 E Dallas, P.O. Box 70, Mount Vernon, MO 65712 within twenty-four (24) hours. The City Clerk shall complete the Report of Injury Form and submit it to the City's Workers' Compensation insurance carrier. Employees should not send Workers' Compensation reports to the State Division of Workers' Compensation or directly to the local insurance agency.
 - 3. The department head should contact the injured employee within twenty-four (24) hours to determine the extent of the injury. The department head should contact the treating physician to ascertain his/her view point of the injury and how it may be resolved as soon as possible. The conversation with the employee and treating physician should repeat itself every five (5) days until the employee has returned to work.
 - 4. The injured employee shall cooperate fully with the City's managed care provider to obtain appropriate care and treatment until the employee returns to work.
 - 5. According to State law governing Workers' Compensation injuries, the employer has the right of first (1st) evaluation, i.e. choice of a physician. In view of this, when an injury occurs at

work, the City requires the use of a physician approved by the City during normal working hours.

For work-related injuries occurring after office hours or requiring more comprehensive care, the employee should go to the emergency room at a hospital approved by the City's group health insurance plan.

The City has made arrangements with the above facilities to bill the City directly for all Workers' Compensation charges. The City of Mount Vernon and its insurance agent/carrier will not be liable for any charges other than those made through the above-named services or their referrals.

- D. *Application Of Accumulated Sick Leave To Supplement Workers' Compensation Benefits.* Any permanent or full-time employee of the City of Mount Vernon, Missouri, who, by reason of illness or injury within the coverage of the State Workers' Compensation law, is prevented from performing the normal duties to which the employee is assigned, may apply any unused sick leave to which the employee is entitled to supplement the payments made to the employee under the State Workers' Compensation law. If so applied, the City shall pay such employee the difference between the amount the employee is paid under the Workers' Compensation law and the amount of the employee's regular compensation for a like period. (Ord. No. 1.204 §1(260), 5-8-01)

SECTION 117.280: PENSION PLAN

All full-time employees shall become members of the Missouri Local Government Employees Retirement System (LAGERS) at the end of the probationary period. Members are vested in the plan at the end of five (5) years' service. Further information on the retirement system may be obtained through the office of the City Clerk. (Ord. No. 1.204 §1(270), 5-8-01)

SECTION 117.290: EMPLOYEE CONDUCT

- A. All employees shall be expected to maintain a standard of conduct which reflects favorably on the individual, the department, the City and public employment. Breaches of this standard of conduct shall result in appropriate disciplinary action.
- B. The City of Mount Vernon does not tolerate workplace wrongdoing on City premises, property or while acting within the scope of employment. Any employee who commits workplace wrongdoing may be subject to disciplinary action, up to immediate discharge.
- C. *Incidents Of Misconduct.*
1. Conduct including, but not limited to:
 - a. Misrepresentation of any job qualification, personal data or other information reasonably necessary to determine ability or capability of job performance duties or the failure to disclose information directly related to a determination of job qualification or ability.
 - b. Excessive or unexcused absences from work or failure to attend meetings or scheduled events necessary to satisfactorily perform job functions.
 - c. Direct or indirect insubordination to any supervisor or department head or the failure to follow appropriate instructions on any matter related to performance of job functions.

- d. Misuse of any office or employment position for purposes beyond the reasonable scope of duties of that office or position or for any personal gain not directly related to employment by the City.
 - e. Acceptance of any gifts, personal services or other remuneration of value, other than ordinary compensation, benefits and awards approved or sanctioned by policies of the Board of Aldermen or by a recognized professional or occupational group or organization for the performance of job duties.
 - f. Dereliction of job duties.
 - g. Maintaining a personal appearance or demeanor which creates or causes public embarrassment, ridicule, social complaint or otherwise adversely reflects upon job performance of the City.
 - h. Any breach of confidence by the release or communication of information derived through employment which is considered confidential job information, which by law is protected information or which is authorized for release only through specialized procedures of the City.
 - i. Failure to adhere to or comply with established rules and regulations for the safety of employees or the public or the endangering of employees or the public by the failure to exercise due care in the performance of job duties.
 - j. Taking of action directly contrary to established City policies or misrepresenting City policies, programs or issues to the public.
 - k. Horseplay, practical jokes and pranks.
2. Unlawful or illegal conduct including, but not limited to:
- a. The unauthorized use of City property for any purpose or removal, without permission, of any City property from its designated place for personal or unauthorized use or the use of City property in a manner or for a purpose for which the property was not designed or intended.
 - b. Failure to use appropriate care for City property or the intentional destruction or loss of City property.
 - c. The use or possession of alcoholic beverages or any drug or substance or any medication (other than over-the-counter medication) without a doctor's prescription or any controlled or illegal drug or substance (without a prescription) while on City property or while performing duties for the City.
 - d. Performing any job duty or job-related function while under the influence of alcoholic beverages or any hallucinogenic illegal or controlled substance other than approved, safe and prescribed medications.
 - e. A determination that any employee suffers from chemical dependency or substance abuse which does or may impair job performance or ability.
 - f. Any violent, abusive or physical misbehavior. Fighting is prohibited on City premises.

- g. Any action of brutality or cruelty.
 - h. Any act of dishonesty.
 - i. Any act of misbehavior which causes disruptions or is disruptive to the normal, standard City business operations.
 - j. Any act or conduct which violates established duties or rights of other employees or the public including, but not limited to, rights of privacy, sexual harassment, racial prejudice, defamation and physical safety.
 - k. Theft of property, whether from the employer, customer or from a co-worker. Employees should seek permission before removing City materials, tools or other items, including damaged goods, scrap metal or any other material.
 - l. False information on any expense account sheet or on any insurance claim submitted under the City's health care benefits or Workers' Compensation benefits program.
 - m. Embezzlement or stealing of City funds or citizen/customer funds including, but not limited to, stealing money from a City account, stealing postage or unlawful use of telephone privileges.
 - n. Gambling in public facilities or on City property. This applies to employees who take bets as well as those who place bets.
- D. *Procedure For Reporting Workplace Wrongdoing.* If an employee becomes aware of any of the acts listed above taking place, the individual is encouraged to discuss their questions, problems, complaints or reports in accordance with Policy No. 300 "Employee Appeals/Grievance Procedure and Chain of Command".
- E. *Behavior Reflection On The City.* Any unauthorized act or conduct which does, in fact, expose the City to civil or criminal liability or any acts or conduct which knowingly results in disrespect for City business operations. (Ord. No. 1.204 §1(280), 5-8-01)

SECTION 117.300: SUBSTANCE ABUSE POLICY—NO TOLERANCE

- A. The City of Mount Vernon prohibits and does not tolerate the possession or use of alcohol or illegal drugs at any time during the workday or anywhere within public facilities, on City property or in its vehicles and has the right to conduct random testing for these substances from time to time.
- B. Employees are forbidden to sell or make other transactions involving illegal drugs during work or in public facilities, on City properties or in its vehicles. Violators may be subject to immediate disciplinary action including, but not limited to, termination. Any sale of illegal drugs during work or in public facilities, City property or in City vehicles will be treated as gross misconduct, punishable by immediate discharge for the first (1st) offense.
- C. The City of Mount Vernon prohibits the unlawful manufacture, distribution, dispensation and possession of drugs and alcohol in public facilities, on City property or while conducting business off of the City's premises.
- D. Employees are expected and required to report to work on time and in an appropriate mental and

physical condition for work. To do so, employees must not have alcohol or illegal drugs in their system. Violators may be subject to disciplinary action including, but not limited to, termination.

- E. Any employees who are using prescription drugs that may have adverse side effects should inform their supervisor or department head as soon as possible that they are taking medication on the advice of a physician. Such employees are responsible for disclosing to the supervisor or department head the possible side effects of the drug on work safety or performance and the expected duration of its use.
- F. *Procedure For Reporting Possession Or Use Of Alcohol Or Illegal Drugs.* If an employee becomes aware of the possession or use of alcohol or illegal drugs by other employees, the individual is encouraged to discuss their questions, problems, complaints or reports in accordance with Policy No. 300 "Employee Appeals/Grievance Procedure and Chain of Command". (Ord. No. 1.204 §1(285), 5-8-01)

SECTION 117.310: EMPLOYEE DISCIPLINE

- A. *Purpose.* To set forth supervisory guidelines for steps in the disciplinary action process with the objective of improving performance, documenting and correcting undesirable performance to the extent possible in a reasonable, objective and consistent manner.
- B. *Scope.* This policy applies to supervisors and employees. It is the responsibility of the supervisor/department manager to administer discipline in a reasonable, objective and consistent manner.
 - 1. All full-time and part-time regular employees who have completed the initial probationary period will be subject to the discipline policy.
 - 2. The department manager may institute appropriate and reasonable discipline to those employees who have not completed the initial probationary period without adhering to the discipline model.
 - 3. Employees who have not satisfactorily completed the initial probationary period shall not be entitled to use the due process hearing procedure.
- C. *General Policy.* The City seeks to establish and maintain standards of employee conduct and supervisory practices which will support and promote effective operations in the interest of the City and its employees. Such practices include the administration of fair, consistent and constructive employee discipline.
- D. *Policy Of Discipline.* A uniform policy of employee discipline will be followed. Major elements of this policy include, but are not limited to:
 - 1. Constructive efforts by the supervisor toward helping employees achieve fully satisfactory standards of conduct and job performance.
 - 2. Correction of employee shortcomings or negative behavior only to the extent required.
 - 3. Sufficient notice to employees that discharge will result from continued or gross violation of employee standards of conduct or unsatisfactory job performance for which the employee is at fault.

4. Written documentation of disciplinary warnings given and corrective measures taken.

E. *Action Steps In Discipline.*

1. *Purpose.* The purpose of this policy is to provide steps of disciplinary action which become increasingly severe each time an offense is repeated and to allow appropriate discipline based on the severity of the offense. This procedure would be most effective in dealing with employee misconduct. If the nature of the employee misconduct is severe (for example, theft, gross insubordination or drug usage), the first three (3) disciplinary steps may be by-passed and the utilization of disciplinary suspension or termination may be appropriate. However, for less serious offenses or for repetitive problems (for example, absenteeism, tardiness), then the first three (3) steps may be more appropriate. Issues regarding poor performance will be subject to performance improvement counseling.
2. *Verbal warning.* For minor infractions, the employee will be issued a verbal warning. The infraction shall be explained to the employee, indicating the corrective steps to be taken to prevent reoccurrence. The supervisor should explain to the employee that any reoccurrence of the infraction will result in more severe disciplinary action. Verbal warnings will be documented by the supervisor.
3. *Written warning notice.* For repeated minor infractions or a more substantial infraction, the employee will be issued a written warning notice that misconduct has occurred and what corrective action must take place. Said forms can be found on file in the City's offices. If the situation does not improve, the supervisor may repeat the measure or take stronger disciplinary action. The written warning notice will be prepared following a disciplinary interview of the employee. The employee will be given an opportunity to comment in writing and will be asked to sign the notice, acknowledging receipt. Two (2) copies of the notice will be distributed; one (1) to the employee and one (1) to the employee's personnel file.
 - a. *First (1st) warning.*
 - 1) The first (1st) warning is formal written notice to an employee that misconduct has occurred and what corrective action must take place.
 - 2) Any oral warning documentation must be attached to the first (1st) warning and will be placed in the employee file.
 - 3) Any "first (1st) warning" form will be maintained in the employee's personnel folder a minimum of one (1) year from date of employee acknowledgment. If a second (2nd) written warning is written for an offense during the period, both will be retained as permanent records of the department. If there is no subsequent written warning during the one (1) year period, the written "first (1st) warning" form will be removed from the employee's file.
 - b. *Second (2nd) warning.*
 - 1) This step is also a formal written notice to the employee that a problem exists; as in the previous step, corrective actions are outlined. However, the employee is also given notice that if the situation is not resolved, strong disciplinary action including suspension without pay, demotion and reduction in pay or termination for cause may be imposed.

- 2) This step is appropriate for situations when employees have failed to correct problems documented with the first (1st) warning form or because of an individual violation of policy, which is more than a minor infraction of City or departmental policies.
 - 3) All "second (2nd) warning" forms become part of the department's permanent records. However, if two (2) years have passed since the issuance of the second (2nd) warning form, it cannot be used to justify further disciplinary action. In other words, an employee is deemed to have corrected that problem if no further disciplinary action is taken during the two (2) year period.
4. *Notice of disciplinary action.*
- a. This is the final step of the disciplinary process and the most severe. It should be implemented where the problem warrants immediate action or when the previous disciplinary actions have failed.
 - b. Possible disciplinary action which could occur based on the conference include:
 - 2) Suspension without pay and municipal benefits.
 - 3) Demotion and reduction of pay without benefits.
 - 4) Termination.
 - a. The notice of disciplinary action informs the employee of the intent to suspend without pay, demote with pay reduction or to terminate. Upon receipt of the notice, the employee has the following options:
 - 1) Accept disciplinary action immediately and waive the right to a due process hearing.
 - 2) Accept disciplinary action according to the stated effective date and waive the right to a due process hearing.
 - 3) Request a due process hearing prior to the effective date of the impending action.
 - b. An employee will receive pay for regularly scheduled work until the disciplinary action is complete, either by acceptance or final determination of the due process hearing.
 - c. Should events compel a supervisor to take immediate action, the supervisor may immediately place the employee on administrative leave with pay pending investigation or other action. The employee will be required to leave City premises and may be required to return City property.
5. *Employee response.* Employees have the opportunity to respond to any disciplinary action through the utilization of the appeal procedure. (Ord. No. 1.204 §1(290), 5-8-01)

Editor's Note—Forms for disciplinary action can be found on file in the city offices.

SECTION 117.320: EMPLOYEE APPEALS/GRIEVANCE PROCEDURE AND CHAIN OF COMMAND

A. The following procedure will be used:

1. If a City employee has a question, problem or complaint regarding the policies outlined in this personnel policy manual including, but not limited to, harassment or discrimination or the manner in which the policies have been administered, that employee must initially communicate his/her concerns to his/her immediate supervisor. In the case of the Police Department, the employee shall follow the chain of command as outlined in the department's internal operating procedures. The employee shall communicate his/her concern within ten (10) working days of the occurrence of the incident.
2. If he/she feels uncomfortable doing so or if the supervisor is the source of the problem, condones the problem or ignores the problem, the employee shall reduce his/her concern to writing and sign, date and deliver it to the person listed below, depending on the department involved.

Public Works:	Public Works Director
Police Department:	Police Chief
Administrative Staff:	City Administrator

3. If he/she feels uncomfortable doing so or if the individual listed above is the source of the problem, condones the problem or ignores the problem, they should report the problem in writing (signed and dated) to the City Administrator.
 4. If none of these alternatives is satisfactory to the employee, then they can direct their questions, problems, complaints or reports to the Personnel Committee in writing (signed and dated).
 5. If none of these alternatives is satisfactory to the employee, then they can direct their questions, problems, complaints or reports to the Board of Aldermen in writing (signed and dated).
- B. At each level of the process outlined above, the supervisor, department head or City Administrator shall process the concern expeditiously, but in no case shall they take longer than ten (10) working days to respond. Time limits established in this procedure are in calendar days, unless otherwise stated, and may be extended by mutual agreement in writing. The Board of Aldermen shall respond expeditiously and within a timetable which seems most appropriate to them upon consultation with the City Attorney. The employee is not required to directly confront the person who is the source of the report, question or complaint before notifying any of the individuals listed.
- C. *Violation Of Chain Of Command.* The procedures listed above shall be followed and each level must be given ample time to deal with the matter before the employee moves on to the next higher level. An attempt to bypass any level within this chain of command is a direct violation of the rights of your superiors, constitutes an act of insubordination (disobedience to authority) and may result in disciplinary action. (Ord. No. 1.204 §1(300), 5-8-01)

SECTION 117.330: PRODUCTIVE WORK ENVIRONMENT POLICY

A. This policy is a part of the City's continuing effort and practice to provide employees with a pleasant working environment which encourages efficient, productive and creative opportunities.

B. To this end, the following comments apply:

1. The City will not tolerate verbal or physical conduct by any employee which harasses, disrupts or interferes with another's work performance or which creates an intimidating, offensive or hostile work environment. This includes harassment for the following reasons: race, national origin, religion, disability, pregnancy, age, military status or sex.
2. *Sexual harassment.*
 - a. The City of Mount Vernon does not tolerate sexual harassment. The City of Mount Vernon provides procedures for victims of sexual harassment to report sexual harassment and disciplinary penalties for those who commit sexual harassment. No person, employee or third (3rd) party, no matter his/her title or position, has the authority, whether expressed, actual, apparent or implied, to commit sexual harassment.
 - b. While all forms of harassment are prohibited, it is the City's policy to emphasize that sexual harassment is specifically prohibited. Each supervisor has a responsibility to maintain a workplace that is free of any form of sexual harassment.
 - c. Sexual harassment includes any unwelcome sexual advances, requests for sexual favors and any other verbal or physical conduct of a sexual nature where such actions or allowance of such actions are made a condition of employment that interferes with an individual's work performance or creates an intimidating, hostile or offensive working environment. Examples include requiring a sexual act or favor to keep a job, to procure a job or raise or to obtain a promotion.
 - d. The Equal Employment Opportunity Commission (EEOC) defines sexual harassment as follows:

"Unwelcome sexual advances, request for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment."
 - e. No supervisor shall threaten or insinuate, either explicitly or implicitly, that an employee's refusal to submit to sexual advances will adversely affect the employee's employment, evaluation, wages, advancement, assigned duties, shifts or any other condition of employment or career development.
 - f. The City of Mount Vernon prohibits, forbids and does not tolerate any employee, manager or visitor, male or female, to harass an employee or non-employee participant in the workplace or to create a hostile or intolerable working environment by exhibiting, committing or encouraging:
 - 1) Unwelcome sexual flirtation, touching, advances or propositions;
 - 2) Verbal abuse of a sexual nature;

- 3) Demeaning, insulting, intimidating or unwelcome sexually suggestive comments about an individual's dress or body;
 - 4) The display in the workplace of demeaning, insulting, intimidating or sexually suggestive objects or pictures, including nude photographs. Also, exhibiting material such as pornographic or sexually explicit posters, calendars, graffiti or objects.
 - 5) Demeaning, insulting, intimidating or sexually suggestive written, recorded or unwelcome electronically transmitted messages.
 - 6) Unwanted, unwelcome and unwarranted sexual advances including, but not limited to, requests, comments or innuendoes regarding sex, including sexual jokes, gestures, statements or stalking.
 - 7) Intentional or malicious physical conduct that is sexual in nature including, but not limited to, touching, pinching, patting, brushing and/or pulling against another's body or clothes.
 - 8) Use of the computer system to engage in communications that are in violation of this or any Mount Vernon policy, including, but not limited to, the acquisition, possession or transmission of defamatory, obscene, offensive or harassing material, is strictly prohibited. The City of Mount Vernon reserved the right to inspect any City of Mount Vernon computer system/equipment for violations of this policy.
- g. Any employee who believes that the action or words of a supervisor, manager, fellow employee or non-employee constitute unwelcome harassment has a responsibility to report or complain as soon as possible to their supervisor or department head. Once a complaint has been reported, the supervisor or department head shall inform the City Administrator of the complaint in writing within twenty-four (24) hours. This report shall be signed by the complaining party and shall be dated. Any supervisor or department head who fails to report such complaint to the City Administrator within the period of time listed shall be subject to appropriate disciplinary action up to and including termination of employment.
- h. All complaints of harassment will be investigated promptly and in an impartial and confidential manner. In all cases, the employee will be advised of the finding and conclusion of the investigation.
- i. The City of Mount Vernon will determine what constitutes sexual harassment based on a review of the facts and circumstances of each situation. The City of Mount Vernon reserves the right and hereby provides notice that third (3rd) parties may be used to investigate claims of sexual harassment. Employees must cooperate in any investigation of workplace wrongdoing or risk termination. All employees, including supervisors and managers, will be subject to severe disciplinary action, up to and including discharge, for any acts of sexual harassment they are believed to have committed.
- j. Any employee, supervisor or manager who is found, after appropriate investigation, to have engaged in harassment of another employee will be subject to appropriate disciplinary action up to and including termination of employment. The City prohibits any form of retaliation against employees for bringing bona fide complaint or providing information about harassment. However, if an investigation of a complaint shows that the complaint or information was false, the individual who provided the false information will be subject to disciplinary action.

- k. It is expected that all employees of the City will continue to act responsibly and contribute to a productive and pleasant working environment free of discrimination and harassment of any kind. The City encourages any employee to raise questions he/she may have regarding this policy or its application with their supervisor.
- C. *Procedure For Reporting Sexual Harassment.* If an employee is harassed, the employee may communicate his/her concerns in accordance with Policy No. 300 "Employee Appeals/Grievance Procedure and Chain of Command". (Ord. No. 1.204 §1(310), 5-8-01)

SECTION 117.340: USE OF CITY VEHICLES

- A. *Purpose.* The purpose of this policy is to outline a general guideline for the use of City vehicles. This policy supersedes all departmental manuals for the provisions listed. Additional directives concerning the use of City vehicles may be used by departments as long as they do not conflict with the provisions listed in this policy.
- B. *Application.* This policy shall apply uniformly to all personnel using City vehicles. Such usage includes department heads and assistant department heads who are provided with a private vehicle. Additionally, the policy includes all maintenance equipment, patrol cars, fire-fighting equipment and any other vehicle owned or insured by the City.
- C. *Definition.* For the purpose of this policy, a "*City-owned vehicle*" is defined as any vehicle which was purchased by the City or for which the City holds title or which was donated to the City or which the City provides insurance or any other vehicle which is commonly known to belong to or controlled by the City of Mount Vernon.
- D. *Policy.*
 1. Any employee using a City-owned vehicle for any purpose or a privately owned vehicle for City work-related purposes shall:
 - a. Be fully qualified to operate the specific vehicle;
 - b. Have a valid driver's or chauffeur's license in effect (this applies to public road use only; operation of an off-road vehicle such as a mower may not require a license);
 - c. Operate the vehicle only as authorized for City work-related purposes;
 - d. Comply with all traffic laws, rules and regulations;
 - e. Exercise due care and diligence in operation of the vehicle;
 - f. Not permit any unauthorized person to operate the vehicle;
 - g. Keep or cause the vehicle to be kept adequately maintained and insured;
 - h. Not operate the vehicle when under the influence of alcohol or any controlled substance;
 - i. Promptly notify department head of any maintenance problem, accident or other problem with the vehicle.

2. Unless otherwise provided, City-owned vehicles will be used only for City business.
3. Department heads will require that any employee in his/her department who is using his/her private automobile on City business will annually provide proof of insurance, as required for a license by the State of Missouri. The department head shall retain a copy of the proof of insurance card or insurance policy on file. Any employee who fails to annually provide such proof of insurance shall not be authorized to use his/her private automobile for City business and shall not receive mileage reimbursement as outlined in paragraph (4) below.
4. Employees and City officials who drive their private vehicles on City business (approved by the department head) may be reimbursed a mileage allowance equal to the maximum rate per mile allowed for a business expense deduction by the IRS.
5. Certain employees who regularly use private vehicles for City business may be paid a car allowance authorized by the Board of Aldermen.
6. City-owned vehicles shall not be taken out of the City limits of Mount Vernon unless:
 - D.1.a. There exists the imperative need for Mount Vernon Police or Fire involvement; or
 - D.1.b. It is done with the knowledge and approval of the department head.
7. Under no circumstances will persons, other than City employees, ride in City-owned vehicles other than on official City business approved by the department head. When conducting official City business, non-employee riders must be accompanied by a City employee.
8. Only City employees may drive City-owned vehicles.
9. Violations of any of the provisions listed in this policy shall be considered an "incident of misconduct" as described in the City Personnel Policy titled "Standards of Conduct". Such violations shall be subject to the disciplinary provisions included in the City policy titled "Employee Discipline". (Ord. No. 1.204 §1(320), 5-8-01)

SECTION 117.350: AMERICANS WITH DISABILITIES ACT GRIEVANCE PROCEDURE

A. Purpose.

1. The Americans With Disabilities Act Grievance Procedure (hereinafter referred to as "procedure") is established pursuant to the Americans With Disabilities Act of 1990, 42 U.S.C. Section 12101 et seq., (hereinafter referred to as "ADA") and specifically Section 35.107 of the Title II regulations, 28 CFR Part 35 requiring that a grievance procedure be established to resolve grievances asserted by qualified individuals with disabilities. Should any individual desire to review the ADA or its regulations to understand the rights, privileges and remedies afforded by it, please contact the City Clerk.
2. In general, the ADA requires that each program, service and activity offered by the City of Mount Vernon, when viewed in its entirety, be readily accessible to and usable by qualified individuals with disabilities.
3. It is the intention of the City to foster open communications with all individuals requesting readily accessible programs, services and activities. The City encourages supervisors of

programs, services and activities to respond to requests for modifications before they become grievances.

B. *Definitions.* As used in this Section, the following terms shall have these prescribed meanings:

COMPLAINANT: An individual with a disability who files a grievance form provided by the City under this procedure.

DESIGNATED COORDINATOR: The City Administrator shall act as the "designated coordinator" for their department. The designated coordinator is a person appointed by the City who is responsible for the coordination of efforts of the City to comply with and carry out its responsibilities under Title II of the ADA including investigation of grievances filed by complainants. See 28 CFR 34.107.

GRIEVANCE: Any complaint under the ADA by an individual with a disability who meets the essential eligibility requirements for participation in or receipt of the benefits of a program, activity or service offered by the City of Mount Vernon and believes he/she has been excluded from participation in or denied the benefits of any program, service or activity of the City or has been subject to discrimination by the City.

C. *Procedure.*

1. Grievances must be submitted through the channels defined in Policy No. 300, "Employee Appeals/Grievance Procedure and Chain of Command" in the form and manner as described within the specified time limits. It is mutually desirable and beneficial that grievances be satisfactorily resolved in a prompt manner. Time limits established in this procedure are in calendar days, unless otherwise stated, and may be extended by mutual agreement in writing.
2. A complainant's failure to submit a grievance or to submit or appeal it to the next level of procedure within the specified time limits shall mean that the complainant has withdrawn the grievance or has accepted the last response given in the grievance procedure as the City's last response.
3. The City shall, upon being informed of that individual's desire to file a formal grievance, instruct the individual how to receive a copy of this procedure and the grievance form.
4. At the final step in the formal grievance process, the complainant shall be afforded an opportunity to appear before the Board. Complainant shall have a right to appoint a representative to appear on his/her behalf. The panel shall review the designated coordinator's written response and may conduct interviews and seek advice as it deem appropriate.
5. The panel shall render a decision thereon in writing, shall state the basis therefore and shall cause a copy of the decision to be served on the parties. The panel's decision shall be final.
6. The grievance form, the designated coordinator's response, the statement of reasons for dissatisfaction and the decision of the panel shall be maintained in accordance with the records retention policy established for municipal entities.

D. *Accessibility.* The City shall ensure that all stages of the procedure are readily accessible to and usable by individuals with disabilities.

E. *Case-By-Case Resolution.* Each grievance involves a unique set of factors which include, but are

not limited to: the specific nature of the disability; the essential eligibility requirements, the benefits to be derived and the nature of the service, program or activity at issue; the health and safety of others; and whether or not an accommodation would constitute a fundamental alteration to the program, service or activity or undue hardship on the City. Accordingly, termination of a grievance at any level, whether through the granting of relief or otherwise, shall not constitute a precedent on which any other complainants should rely. (Ord. No. 1.204 §1(340), 5-8-01)

Editor's Note—The ADA grievance form is kept on file at the city offices.

SECTION 117.360: FAMILY AND MEDICAL LEAVE POLICY

A. *Purpose.* To define the City's policy and procedure with regard to family and medical leave.

B. *Maternity Leave.*

1. The City of Mount Vernon prohibits and does not tolerate discrimination against anyone on the basis of pregnancy. The City of Mount Vernon will treat all applicants and employees who are pregnant in the same manner as any other applicant or employee with regard to job-related functions, benefits, opportunities and purposes. No person or employee, no matter his/her title or position, has the authority, whether expressed, actual, apparent or implied, to discriminate against a pregnant employee or applicant of the City of Mount Vernon.
2. The City of Mount Vernon will not deny a job or remove a pregnant employee from a position because the employee is pregnant, considering pregnancy or experiencing any pregnancy-related problems. All decisions regarding a pregnant employee's placement in or continuation in a job will be based on the same consideration that governs all employment decisions—the employee's ability to satisfactorily perform the essential duties of the job in question.
3. An employee who becomes pregnant shall be granted maternity leave without pay; however, the employee may elect to use any accrued sick leave or vacation leave to the extent such leave is available. All privileges and benefits shall apply in the case of maternity leave, without pay, as with any other employee on sick leave or other leave without pay status. An employee must return to work within three (3) months following birth.

C. *Procedure For Reporting Pregnancy Discrimination.*

1. If an employee has a question, complaint or problem related to pregnancy discrimination, the individual is encouraged to discuss their questions, problems, complaints or reports with their immediate supervisor. If she feels uncomfortable doing so or if their supervisor is the source of the problem, condones the problem or ignores the problem, they should report the problem to the City Administrator.
2. If neither of these alternatives are satisfactory to the employee, then they can direct their questions, problems, complaints or reports to the Board of Aldermen. The employee is not required to directly confront the person who is the source of the report, question or complaint before notifying any of the individuals listed.

D. *General.*

1. Employees who have been employed for at least one (1) year and for at least one thousand two hundred fifty (1,250) hours during the preceding twelve (12) month period are eligible for

family and medical leave. Employees will be returned to the same or to an equivalent position upon their return from leave.

2. Family or medical leave will be unpaid leave. If leave is requested for an employee's own serious health condition, the employee must use all of his/her accrued paid vacation leave, sick leave or personal leave. If leave is requested for any of the other reasons listed below, an employee must use all of his/her accrued vacation or personal leave. The remainder of the leave period will then consist of unpaid leave.

E. *Reasons For Leave.*

1. All employees who meet the applicable time of service requirements may be granted a total of twelve (12) weeks of unpaid family leave and paid sick, vacation and personal leave combined (during any twelve (12) month period) for the following reasons:
 - a. The birth of the employee's child and in order to care for the child;
 - b. The placement of a child with the employee for adoption or foster care;
 - c. To care for a spouse, child or parent who has a serious health condition; or
 - d. A serious health condition that renders the employee incapable of performing the functions of his/her job.
2. The entitlement to leave for the birth or placement of a child for adoption or foster care will expire twelve (12) months from the date of the birth or placement.

F. *Application For Leave.* In all cases, an employee requesting leave must complete the "Application for Family and Medical Leave" form, which can be found on file in the city offices, and return it to the City Clerk's office as soon as the necessity for the leave arises.

G. *Medical Certification Of Leave.*

1. An application for leave based on the serious health condition of the employee or the employee's spouse, child or parent must also be accompanied by a "Medical Certification Statement" completed by the applicable health care provider. The certification must state the date on which the health condition commenced, the probable duration of the condition and the appropriate medical facts regarding the condition.
2. If the employee is needed to care for a spouse, child or parent, the certification must so state along with an estimate of the amount of time the employee will be needed. If the employee has a serious health condition, the certification must state that the employee cannot perform the functions of his/her job.

H. *Benefits Coverage During Leave.*

1. During a period of family or medical leave, an employee will be retained on the City health and life plans under the same conditions that applied before leave commenced. To continue health coverage, the employee must continue to make any contributions that he/she made to the plan

before taking leave. Failure of the employee to pay his/her share of the health insurance premium may result in loss of coverage.

2. If the employee fails to return to work after the expiration of the leave, the employee will be required to reimburse the City for payment of health insurance premiums during the family leave, unless the reason the employee fails to return is the presence of a serious health condition which prevents the employee from performing his/her job or to circumstances beyond the employee's control.
 3. An employee is not entitled to the accrual of any seniority or employment benefits that would have accrued if not for the taking of leave. An employee who takes family or medical leave will not lose any seniority or employment benefits that accrued before the date leave began.
- I. *Restoration To Employment.* An employee eligible for family and medical leave will be restored to his/her old position or to a position with equivalent pay, benefits and other terms and conditions of employment. The City cannot guarantee that an employee will be returned to his/her original job. A determination as to whether a position is an "equivalent position" will be made by the City.
- J. *Return From Leave.* An employee must complete a "Notice of Intention to Return From Family or Medical Leave" before he/she can be returned to active status. If an employee wishes to return to work prior to the expiration of a family or medical leave of absence, notification must be given to the employee's supervisor at least five (5) working days prior to the employee's planned return.
- K. *Failure To Return From Leave.* The failure of an employee to return to work upon the expiration of a family or medical leave of absence will subject the employee to immediate termination unless an extension is granted. An employee who requests an extension of family leave or medical leave due to the continuation, recurrence or onset of his/her own serious health condition or of the employee's spouse, child or parent must submit a request for an extension, in writing, to the employee's immediate supervisor. This written request should be made as soon as the employee realizes that she/he will not be able to return at the expiration of the leave period. (Ord. No. 1.204 §1(350), 5-8-01)

ARTICLE II. CONTROLLED SUBSTANCE AND ALCOHOL USE PROGRAM—DOT

SECTION 117.370: POLICY STATEMENT

- A. The purpose of this policy is to establish procedures for the administration of the Department of Transportation (DOT) and the Federal Highway Administration Controlled Substance and Alcohol Use Program pursuant to the Code of Federal Regulations, Title 49 (49 CFR), Part 382.
- B. Any job applicant applying for a position covered in this policy who refuses or fails a pre-employment drug or alcohol test will not be hired. Any employee covered by this policy who refuses or fails an alcohol or drug test will immediately be removed from the safety-sensitive function, operation, maintenance or emergency-response functions covered by this Article. (Ord. No. 1.205 §1, 6-12-01)

SECTION 117.380: PROCEDURES

A. Employee Categories.

1. *Applicants and current employees.* An "employee" means a person or applicant that is subject to breath and urine testing under DOT agency regulations. Generally those individuals who

operate a commercial motor vehicle in interstate or intrastate commerce and are subject to the commercial driver's license requirement of Part 383 and Controlled Substance and Alcohol Use and Testing, Part 382 are included.

2. *Supervisors.* Employee Assistance Program (EAP training) supervisory positions will receive EAP training for detection of symptoms of drug and alcohol use.

B. *Types Of Testing.* Employees subject to this alcohol and drug testing program are required to be tested under the following types of testing:

1. *Pre-employment testing.* A pre-employment drug test will be conducted when an individual is hired for the position of driver and before he/she performs safety-sensitive functions (drives). If a pre-employment drug test has a positive result, the offer of employment will be withdrawn.

Exceptions from pre-employment testing. An individual is not required to undergo a drug test if the driver has participated in a drug testing program within the previous thirty (30) days and was tested for controlled substances within the past six (6) months (from the date of the application) or participated in a random controlled substance testing program for the previous twelve (12) months (from the date of the application).

2. *Random testing.* All employees working in a position covered by this policy are subject to unannounced testing based on a random selection. The dates of this testing are to be spread reasonably throughout the calendar year.

- a. *Alcohol.* The minimum annual percentage rate for random alcohol testing shall be ten percent (10%) of the average number of drivers. The minimum annual percentage rate for alcohol testing is based on the reported violation rate for the entire industry. A driver shall only be tested for alcohol just before performing safety-sensitive functions, during performing safety-sensitive functions or just after the driver has ceased performing such functions.

- b. *Controlled substances.* The minimum annual percentage rate for random controlled substance testing shall be fifty percent (50%) of the average number of driver positions. Each year the Federal Highway Administration will publish in the Federal Register the new minimum annual percentage rate. The new minimum annual percentage rate for random alcohol testing will be applicable starting January first (1st) of the calendar year following the publication.

3. *Post-accident testing.* A surviving driver shall be tested for alcohol and controlled substances following an accident:

- a. If the accident involved the loss of human life.

- b. If the driver receives a citation under the State or local law or a moving traffic violation plus either:

- 1) Disabling damage to a vehicle, which has to be towed.

- 2) Or an injury requiring immediate medical treatment away from the scene.

- c. *Alcohol.* An alcohol test must be administered as soon as reasonably possible after an accident. It is recommended to be within two (2) hours. If a test is not administered, the

employer shall prepare and maintain on file a record stating the reasons the test was not promptly administered.

- d. *Controlled substances.* A controlled substance test must be administered within thirty-two (32) hours following the accident. After this time the employer shall cease attempts to administer a controlled substance test and prepare and maintain on file a record stating the reasons the test was not promptly administered.
4. *Reasonable cause testing.* The employer's determination that reasonable suspicion exists to require the driver to undergo an alcohol or a controlled substance test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver and so documents.
5. *Return to duty testing.* Before a driver returns to duty in the performance of a safety-sensitive function, he/she must undergo an alcohol test with a result indicating an alcohol concentration of less than two-hundredths (0.02) and a controlled substances test with a verified negative result. Such a driver must be evaluated by a substance abuse professional and successfully complete any recommended treatment.
6. *Follow-up testing.* Following a driver's return to duty, follow-up testing shall consist of at least six (6) tests in the first twelve (12) months and may continue for up to sixty (60) months (decided by the EAP) from the date of the driver's return to duty.

The NIDA lab used for drug testing and MRO services:

Lab One, Inc.
P.O. Box 801159
Kansas City, Missouri 64180-1159
Telephone: 800-728-4064

MRO
University Services
Arsenal Business Center Building 4
5301 Tacony Street
Philadelphia, Pennsylvania 19137
Telephone: 215-743-4200

Collections of DOT drug screens and alcohol testing. The company performing the collections of the DOT drug screens and alcohol testing by breath:

Employee Screening Services
Route 1, Box 4410
Long Lane, Missouri 65590
Telephone: 417-345-4614 or 888-379-7697

Employee Screen Service
P.O. Box 1665
Springfield, Missouri 65801

- C. *A Refusal To Submit To A Drug Or Alcohol Test.* If an employee refuses to submit to a drug or alcohol test, this will be considered a positive. All consequences of a positive will be instituted.
- D. *Consequences Of Drug Abuse Or Alcohol Misuse.*
 1. If an employee fails a drug or alcohol test, the employer may institute one (1) of the following alternatives:

- a. Termination;
 - b. Refuse to hire a potential employee;
 - c. Rehire after successful completion of drug/alcohol rehabilitation program.
2. If an employee tests above four-hundredths (.040) for alcohol or has a positive drug test, the employer must require the employee to undergo the following alternatives:
- a. Be evaluated by a substance abuse professional (SAP);
 - b. Successfully complete any recommended treatment; and/or
 - c. Pass a return-to-duty test.

E. *Information And Training.*

1. *Education.* Every employee covered by this policy will receive alcohol misuse and drug abuse education.
 - a. Drug information will be periodically distributed and displayed in the work areas.
 - b. A copy of the Substance Abuse Policy will be given to each employee and displayed in the work areas.
 - c. Hot-line telephone numbers for the employee assistance program will be given to each employee and displayed in the work areas. ESS - 1-888-379-7697 or A and D Recovery Pager 1-417-841-9013 office 1-417-532-8869.
2. *Training.* Every supervisor covered by this policy who will determine whether an employee must be drug- or alcohol-tested based on reasonable cause will receive the following training.
 - a. One (1) hour minimum training period on contemporaneous physical, behavioral and performance indicators of probable drug use.
 - b. One (1) hour minimum training on alcohol misuse, specifically covering physical, behavioral, speech and performance indicators.
 - c. *Supervisory and employee training.* The company providing the supervisory and employee training:

Employee Screening Services, Inc.
Route 1, Box 4410
Long Lane, Missouri 65590
Telephone: 417-345-4614 or 1-888-379-7697
FAX: 417-345-4053
 - d. *Referral and employee assistance program.*
 - 1) Each driver who has engaged in conduct prohibited by the City policy shall be advised by the employer of the resources available to the driver in evaluating and resolving problems

associated with the misuse of alcohol and use of controlled substances, including the names, address and telephone numbers of substance abuse professionals, counseling and treatment programs.

- 2) Such a driver shall be evaluated by a substance abuse professional who shall determine what assistance, if any, the employee needs in resolving problems associated with the alcohol misuse and controlled substances abuse. The determination shall be forwarded to the employer in writing. (Ord. No. 1.205 §2, 6-12-01)

SECTION 117.390: WORKERS' COMPENSATION

Missouri Workers' Compensation law (effective in 1990) allows penalties against employees who use alcohol or illegal drugs from fifteen percent (15%) to total forfeiture of benefits, depending upon the circumstances and cause of the accident. (Ord. No. 1.205 §3, 6-12-01)

SECTION 117.400: TEST RESULTS

The employer shall prepare and maintain an annual calendar year summary (provided by ESS) of the results of its alcohol and controlled substances testing programs by March of the following year. Each summary shall contain the following:

- .1. Verified positive controlled substance test results;
- .2. Alcohol screening tests results of two-hundredths (.02) or greater;
- .3. All negative controlled substance test results; and
- .4. All alcohol screening test results of less than two-hundredths (.02).
- .5. Refer to Subpart D, paragraph 382.403, page 15 for a further breakdown of the reports. (Ord. No. 1.205 §4, 6-12-01)

SECTION 117.410: RECORDS RETENTION

Records shall be maintained for a minimum of five (5) years. See subpart D, paragraph 382.401, page 14 for a breakdown of the types of records. (Ord. No. 1.205 §5, 6-12-01)

SECTION 117.420: CONFIDENTIALITY

No employer shall release driver information, except to the driver, and then only upon a written request or to a subsequent employer upon receipt of a written request from the driver. (Ord. No. 1.205 §6, 6-12-01)

SECTION 117.430: APPROVAL BY MANAGEMENT

Management will coordinate the implementation of this policy and assure reasonable and consistent

application. All managers and supervisors are responsible for enforcing this policy and failure to do so will result in disciplinary action or removal. (Ord. No. 1.205 §7, 6-12-01)

ARTICLE III. DRUG AND ALCOHOL ABUSE–NON-DOT POLICY

SECTION 117.440: STATEMENT OF NEED

Because of the possibility of a high number of accidents, absenteeism, usage of health care benefits and Workers' Compensation claims, the City of Mount Vernon, Missouri, hereinafter referred to as "City", has chosen to institute a Drug and Alcohol Free Workplace Program. The following policy will provide the guidelines to implement such a program. (Ord. No. 1.206 §1, 6-12-01)

SECTION 117.450: THE CITY'S POSITION

The City is most concerned about those situations where the use of alcohol and/or drugs seriously interferes with the safety, health and job performance of its employees. Such interference can only be considered detrimental to its employees and the business of the City. While the City has no intent or desire to intrude upon the private lives of the employees of the City, the City does have an obligation to provide the safest and best possible working environment for all the employees of the City. (Ord. No. 1.206 §2, 6-12-01)

SECTION 117.460: THE RESPONSIBILITIES OF THE CITY AND THE EMPLOYEES

The City recognizes that it has a responsibility to provide a safe and productive work environment for all its employees. The employees of the City also have a responsibility to report to work fit for duty with no illegal drugs or alcohol in their systems. (Ord. No. 1.206 §3, 6-12-01)

SECTION 117.470: PROCEDURES AND PENALTIES

Violation of any of the following work rules is grounds for immediate discipline up to and including termination:

.1. Alcohol.

- a. Possession or drinking of any alcoholic beverage on the property of the City, including the parking lot, driveways and in City vehicles, at any time including during breaks or lunch is prohibited. Also, reporting for work while under the influence of alcohol is prohibited. An individual who is found to have a concentration level of alcohol in the body in excess of two-hundredths (.02) is considered impaired and disciplinary action will be taken.
- b. The City may require an employee who is reasonably believed to be "under the influence" of alcohol to have an alcohol concentration test by breath performed at the expense of the City by qualified personnel.

.2. Illegal drugs.

- a. Possession, use, distribution, purchase, sale or offering for sale of narcotics or any controlled or illegal substance on the property of the City, including the parking lot and the vehicles of the City, at any time including breaks or lunch is prohibited.
 - b. Reporting for work or working while under the influence of any controlled or illegal substance, except a drug prescribed for the employee by a physician and used by the employee as prescribed, will be disciplined. The burden of proof lies with the employee and the disposition of each case will be determined by management.
 - c. Employees who are not actually on the property of the City, but are performing work for the City, are expected to follow these work rules. Failure by any employee to comply with these rules while on City business off-site will be treated the same as if the employee were in the property of the City.
- .3. *Refusal.* A refusal to comply with a directive to undergo an alcohol or drug test is considered positive drug screen. Discipline, up to and including termination, is the penalty for failing a drug or alcohol screen.
- .4. *Types of testing.*
- a. *Pre-employment.* All potential new hires will have the policy of the City explained during the interview and will be required to be tested for drugs prior to employment. A negative test will be a condition of employment. The City also will not hire any applicant who refuses to sign the consent form for the drug and alcohol tests.
 - b. *Reasonable cause.*
 - 1) The City will require an employee reasonably suspected of being "under the influence" of alcohol and/or drugs and so documented to be tested by qualified personnel at the expense of the City if the result is negative. If the result is positive, the employee must bear the expense.
 - 2) The City will only require an employee to be tested for alcohol and/or drugs if management reasonably suspects the employee to be under the influence of alcohol and/or drugs based on their observations of the employee's job performance, personal behavior or any other evidence of alcohol or drug abuse and so documented.
 - c. *Post-accident or on-the-job injury.*
 - 1) An employee who is involved in an on-the-job accident or injury may be tested for alcohol and drugs as part of the investigation by the City into the case of the accident or injury. If the result is negative, it will be at the expense of the City; if the result is positive, the employee must bear the expense.
 - 2) The City may require the alcohol or drug testing of any employee involved in an on-the-job accident resulting, in the opinion of the City, in significant damage to personnel, materials, equipment, vehicles or products. The City may also require the alcohol and drug testing of the driver of any car, truck or other vehicle of the City involved in an accident. The City, additionally, may require the alcohol and drug testing of any employee, whose on-the-job injury warrants medical treatment at a medical facility.

d. *Random.*

- 1) All employees are subject to unannounced testing based on a random, scientifically based selection. If an employee is randomly chosen to take a drug and/or alcohol test and the test is positive, the employee will be subject to immediate disciplinary action up to and including termination. Dates for this testing are spread throughout the year.
- 2) The City reserves the right to rehire on an individual basis, after rehabilitation and further drug tests. (Ord. No. 1.206 §4, 6-12-01)

SECTION 117.480: WORKERS' COMPENSATION

Missouri Workers' Compensation law (effective in 1990) allows penalties against employees who use alcohol or illegal drugs from fifteen percent (15%) up to total forfeiture of benefits, depending upon the circumstances and cause of the accident. (Ord. No. 1.206 §5, 6-12-01)

SECTION 117.490: APPROVAL BY CITY

City Managers and supervisors of the City will coordinate the implementation of this policy and assure reasonable and consistent application. All managers and supervisors of the City are responsible for enforcing this policy in accordance with applicable work rules. (Ord. No. 1.206 §6, 6-12-01)

CHAPTER 120: CONFLICTS OF INTEREST

SECTION 120.010: DECLARATION OF POLICY

The proper operation of municipal government requires that public officials and employees be independent, impartial and responsible to the people; that government decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, there is hereby established a procedure for disclosure by certain officials and employees of private financial or other interests in matters affecting the City. (Ord. No. 1.215 §1, 9-3-02)

SECTION 120.020: CONFLICTS OF INTEREST

The Mayor or any member of the Board of Aldermen who has a substantial personal or private interest, as defined by State law, in any bill shall disclose on the records of the Board of Aldermen the nature of his/her interest and shall disqualify himself/herself from voting on any matters relating to this interest. (Ord. No. 1.215 §1, 9-3-02)

SECTION 120.030: DISCLOSURE REPORTS

Each elected official, the Chief Administrative Officer and the Chief Purchasing Officer shall disclose in writing the following information by May first (1st) if any such transactions were engaged in during the previous calendar year:

1. For such person, and all persons within the first degree of consanguinity or affinity of such person, the date and the identities of the parties to each transaction with a total value in excess of five hundred dollars (\$500.00), if any, that such person had with the political subdivision, other than compensation received as an employee or payment of any tax, fee or penalty due to the political subdivision, and other than transfers for no consideration to the political subdivision; and
2. The date and the identities of the parties to each transaction known to the person with a total value in excess of five hundred dollars (\$500.00), if any, that any business entity in which such person had a substantial interest, had with the political subdivision, other than payment of any tax, fee or penalty due to the political subdivision or transactions involving payment for providing utility service to the political subdivision, and other than transfers for no consideration to the political subdivision.
3. The Chief Administrative Officer and the Chief Purchasing Officer also shall disclose in writing by May first (1st) for the previous calendar year the following information:
 - a. The names and addresses of each of the employers of such person from whom income of one thousand dollars (\$1,000.00) or more was received during the year covered by the statement;
 - b. The name and address of each sole proprietorship that he/she owned; the name, address and the general nature of the business conducted of each general partnership and joint venture in which he/she was a partner or participant; the name and address of each partner or co-participant for each partnership or joint venture unless such names and addresses are

filed by the partnership or joint venture with the Ethics Commission; the name, address and general nature of the business conducted by any closely held corporation or limited partnership in which the person owned ten percent (10%) or more of any class of the outstanding stock or limited partnership units; and name of any publicly traded corporation or limited partnership that is listed on a regulated stock exchange or automated quotation system in which the person owned two percent (2%) or more of any class of outstanding stock, limited partnership units or other equity interests;

- c. The names and addresses of each corporation for which such person served in the capacity of a director, officer or receiver. (Ord. No. 1.215 §1, 9-3-02)

SECTION 120.040: FILING OF REPORTS

The reports shall be filed with the City Clerk and with the Ethics Commission. The reports shall be available for public inspection and copying during normal business hours. (Ord. No. 1.215 §1, 9-3-02)

SECTION 120.050: FINANCIAL INTEREST STATEMENT—WHEN FILED

The financial interest statements shall be filed at the following times, but no person is required to file more than one (1) financial statement in any calendar year:

1. Each person appointed to office shall file the statement within thirty (30) days of such appointment or employment;
2. Every other person required to file a financial interest statement shall file the statement annually not later than May first (1st) and the statement shall cover the calendar year ending the immediately preceding December thirty-first (31st); provided that any member of the Board of Aldermen may supplement the financial interest statement to report additional interests acquired after December thirty-first (31st) of the covered year until the date of filing of the financial interest statement. (Ord. No. 1.215 §1, 9-3-02)

CHAPTER 125: MUNICIPAL COURT

ARTICLE I. GENERAL PROVISIONS

SECTION 125.010: COURT ESTABLISHED

There is hereby established in the City of Mount Vernon a Municipal Court to be known as the "Mount Vernon Municipal Court, a Division of the 39th Judicial Circuit Court of the State of Missouri". In the event a Police Court existed prior to the establishment of a Municipal Court, this Court is a continuation of the Police Court of the City as previously established and is termed herein "The Municipal Court".

SECTION 125.020: JURISDICTION

The jurisdiction of the Municipal Court shall extend to all cases involving alleged violations of the ordinances of the City.

SECTION 125.030: SELECTION OF MUNICIPAL JUDGE

The Judge of the City's Municipal Court shall be known as a Municipal Judge of the 39th Judicial Circuit Court and shall be selected by appointment to the position by the Mayor with approval of a majority of the members of the Board of Aldermen for a term as specified herein.

SECTION 125.040: MUNICIPAL JUDGE—TERM OF OFFICE

The Municipal Judge shall hold his/her office for a period of two (2) years. If for any reason a Municipal Judge vacates his/her office, his/her successor shall complete that term of office, even if the same be for less than two (2) years.

SECTION 125.050: MUNICIPAL JUDGE—VACATION OF OFFICE

The Municipal Judge shall vacate his/her office under the following conditions:

- .1. Upon removal from office by the State Commission on the Retirement, Removal and Discipline of Judges as provided in Missouri Supreme Court Rule 12;
- .2. Upon attaining his/her seventy-fifth (75th) birthday; or
- .3. If he/she should fail to complete the course of instruction as required by Section 125.060, Subsection (1) hereof.

SECTION 125.060: MUNICIPAL JUDGE—QUALIFICATIONS FOR OFFICE

The Municipal Judge shall possess the following qualifications before he/she shall take office:

- .1. Within six (6) months after selection for the position, each Municipal Judge who is not licensed to practice law in this State shall satisfactorily complete the course of instruction for Municipal Judges prescribed by the Supreme Court.
- .2. He/she need not reside within the City.
- .3. He/she must be a resident of the State of Missouri.
- .4. He/she must be between the ages of twenty-one (21) and seventy-five (75) years.
- .5. He/she may serve as a Municipal Judge for any other municipality.
- .6. He/she may not hold any other office within the City Government.
- .7. The Municipal Judge shall be considered holding a part-time position and as such may accept other employment.

SECTION 125.070: SUPERINTENDING AUTHORITY

The Municipal Court of the City shall be subject to the rules of the Circuit Court of which it is a part and to the rules of the State Supreme Court. The Municipal Court shall be subject to the general administrative authority of the Presiding Judge of the Circuit Court, and the Judge and Court personnel of said Court shall obey his/her directives.

SECTION 125.080: REPORT TO BOARD OF ALDERMEN

The Municipal Judge shall cause the Court Clerk to prepare, within the first ten (10) days of every month, a report indicating the following:

A list of all cases heard or tried before the Judge during the preceding month, giving in each case the name of the defendant, the fine imposed if any, the amount of costs, the names of defendants committed, and the cases in which there was an application for trial de novo, respectively. The Court Clerk or the Judge shall verify such lists and statements by affidavit and shall file the same with the City Clerk who shall lay the same before the Board of Aldermen of the City for examination at its first (1st) session thereafter. The Municipal Court shall, within the ten (10) days after the first (1st) of the month, pay to the Municipal Treasurer the full amount of all fines collected during the preceding month, if not previously paid to the Municipal Treasurer.

SECTION 125.090: DOCKET AND COURT RECORDS

The Municipal Judge shall be a conservator of the peace. He/she shall keep a docket in which he/she shall enter every case commenced before him/her and the proceedings therein and he/she shall keep such other records as may be required. Such docket and records shall be records of the Circuit Court of Lawrence County. The Municipal Judge shall deliver said docket, records and all books and papers pertaining to his/her office to his/her successor in office or to the Presiding Judge of the Circuit.

SECTION 125.100: MUNICIPAL JUDGE—POWERS AND DUTIES GENERALLY

The Municipal Judge shall be and is hereby authorized to:

- .1. Establish a Violations Bureau as provided for in the Missouri Rules of Practice and Procedure in Municipal and Traffic Courts and Section 479.050, RSMo.
- .2. Administer oaths and enforce due obedience to all orders, rules and judgments made by him/her and may fine and imprison for contempt committed before him/her while holding Court in the same manner and to the same extent as a Circuit Judge.
- .3. Stay execution of any fine or sentence, suspend any fine or sentence, and make such other orders as the Municipal Judge deems necessary relative to any matter that may be pending in the Municipal Court.
- .4. Make and adopt such rules of practice and procedure as are necessary to implement and carry out the provisions of this Chapter, and to make and adopt such rules of practice and procedure as are necessary to hear and decide matters pending before the Municipal Court, and to implement and carry out the provisions of the Missouri Rules of Practice and Procedure in Municipal and Traffic Courts.
- .5. The Municipal Judge shall have such other powers, duties and privileges as are or may be prescribed by the laws of this State, this Code or other ordinances of this City.

SECTION 125.110: COMPENSATION

The Municipal Judge for the City of Mount Vernon shall be paid a sum as fixed by ordinance from time to time.

SECTION 125.120: VIOLATIONS BUREAU

Should the Municipal Judge determine that there shall be a Violations Bureau, the City shall provide all expenses incident to the operation of the same.

SECTION 125.130: ISSUANCE AND EXECUTION OF WARRANTS

All warrants issued by a Municipal Judge shall be directed to the Chief of Police or any other Police Officer of the municipality or to the Sheriff of the County. The warrants shall be executed by the Chief of Police, Police Officer or Sheriff at any place within the limits of the County and not elsewhere, unless the warrants are endorsed in the manner provided for warrants in criminal cases and, when so endorsed, shall be served in other Counties as provided for in warrants in criminal cases.

SECTION 125.140: ARRESTS WITHOUT WARRANTS

The Chief of Police or other Police Officer of the City may, without a warrant, make arrest of any person who commits an offense in his/her presence, but such officer shall, before the trial, file a written complaint with the Judge hearing violations of municipal ordinances.

SECTION 125.150: JURY TRIALS

Any person charged with a violation of a municipal ordinance of this City shall be entitled to a trial by jury as in prosecutions for misdemeanors before an Associate Circuit Court Judge. Whenever a defendant accused of a violation of a municipal ordinance has a right to and demands such trial by jury, the Municipal Court shall certify the case to the Presiding Judge of the Circuit Court for reassignment.

SECTION 125.160: DUTIES OF THE CITY'S PROSECUTING ATTORNEY

It shall be the duty of an attorney designated by the City to prosecute the violations of the City's ordinances before the Municipal Judge or before any Circuit Judge hearing violations of the City's ordinances. The salary or fees of the attorney and his/her necessary expenses incurred in such prosecutions shall be paid by the City. The compensation of such attorney shall not be contingent upon the number of cases tried, the number of guilty verdicts reached, or the amount of fines imposed or collected.

SECTION 125.170: SUMMONING OF WITNESSES

It shall be the duty of the Municipal Judge to summon all persons whose testimony may be deemed essential as witnesses at the trial and to enforce their attendance by attachment, if necessary. The fees of witnesses shall be the same as those fixed for witnesses in trials before Associate Circuit Court Judges and shall be taxed as other costs in the case. When a trial shall be continued by a Municipal Judge, it shall not be necessary to summon any witnesses who may be present at the continuance, but the Municipal Judge shall orally notify such witnesses as either party may require to attend before him/her on the day set for trial to testify in the case and enter the names of such witnesses on his/her docket, which oral notice shall be valid as a summons.

SECTION 125.180: TRANSFER OF COMPLAINT TO ASSOCIATE CIRCUIT JUDGE

If, in the progress of any trial before the Municipal Judge, it shall appear to the Judge that the accused ought to be put upon trial for an offense against the criminal laws of the State and not cognizable before him/her as Municipal Judge, he/she shall immediately stop all further proceedings before him/her as Municipal Judge and cause the complaint to be made before some Associate Circuit Court Judge of the County.

SECTION 125.190: JAILING OF DEFENDANTS

If, in the opinion of the Municipal Judge, the City has no suitable and safe place of confinement, the Municipal Judge may commit the defendant to the County Jail, and it shall be the duty of the Sheriff, if space for the prisoner is available in the County Jail, upon receipt of a warrant of commitment from the Judge to receive and safely keep such prisoner until discharged by due process of law. The municipality shall pay the board of such prisoner at the same rate as may now or hereafter be allowed by law to such Sheriff for the keeping of other prisoners in his/her custody. The same shall be taxed as cost.

SECTION 125.200: PAROLE AND PROBATION

- A. Any Judge hearing violations of municipal ordinances may, when in his/her judgment it may seem advisable, grant a parole or probation to any person who shall plead guilty or who shall be convicted after a trial before such Judge. When a person is placed on probation, he/she shall be given a certificate explicitly stating the conditions on which he/she is being released.
- B. In addition to such other authority as exists to order conditions of probation, the Court may order conditions which the Court believes will serve to compensate the victim of the crime, any dependent of the victim, or society in general. Such conditions may include, but need not be limited to:
1. Restitution to the victim or any dependent of the victim in an amount to be determined by the Judge; and
 2. The performance of a designated amount of free work for a public or charitable purpose or purposes as determined by the Judge.
- C. A person may refuse probation conditioned on the performance of free work. If he/she does so, the Court shall decide the extent or duration of sentence or other disposition to be imposed and render judgment accordingly. Any County, City, person, organization or agency or employee of a County, City, organization or agency charged with the supervision of such free work or who benefits from its performance shall be immune from any suit by the person placed on parole or probation or any person deriving a cause of action from him/her if such cause of action arises from such supervision of performance, except for intentional torts or gross negligence. The services performed by the probationer or parolee shall not be deemed employment within the meaning of the provisions of Chapter 288, RSMo.
- D. The Court may modify or enlarge the conditions of probation at any time prior to the expiration or termination of the probation term.

SECTION 125.210: RIGHT OF APPEAL

In any case tried before the Municipal Judge, except where there has been a plea of guilty or where the case has been tried with a jury, the defendant shall have a right of trial de novo before a Circuit Court Judge or upon assignment before an Associate Circuit Court Judge. An application for a trial de novo shall be filed within ten (10) days after judgment and shall be filed in such form and perfected in such manner as provided by Supreme Court rule.

SECTION 125.220: APPEAL FROM JURY VERDICTS

In any case tried with a jury before an Associate Circuit Judge, a record of the proceedings shall be made, and appeals may be had upon that record to the appropriate Appellate Court.

SECTION 125.230: BREACH OF RECOGNIZANCE

In the case of a breach of any recognizance entered into before a Municipal Judge or an Associate Circuit Court Judge hearing a municipal ordinance violation case, the same shall be deemed forfeited and the Judge shall cause the same to be prosecuted against the principal and surety, or either of them, in the name of the municipality as plaintiff. Such action shall be prosecuted before a Circuit

Court Judge or Associate Circuit Court Judge, and in the event of cases caused to be prosecuted by a Municipal Judge, such shall be on the transcript of the proceedings before the Municipal Judge. All monies recovered in such actions shall be paid over to Municipal Treasury to the General Revenue Fund of the municipality.

SECTION 125.240: DISQUALIFICATION OF MUNICIPAL JUDGE FROM HEARING A PARTICULAR CASE

A Municipal Judge shall be disqualified to hear any case in which he/she is in any way interested or, if before the trial is commenced, the defendant or the prosecutor files an affidavit that the defendant or the municipality, as the case may be, cannot have a fair and impartial trial by reason of the interest or prejudice of the Judge. Neither the defendant nor the municipality shall be entitled to file more than one (1) affidavit or disqualification in the same case.

SECTION 125.250: ABSENCE OF JUDGE—PROCEDURE

- A. If a Municipal Judge be absent, sick or disqualified from acting, the Mayor of the Board of Aldermen may request the Presiding Judge of the Circuit Court to designate a special Municipal Judge as provided in Subsection (B) of this Section or the Mayor may designate some competent, eligible person to act as Municipal Judge until such absence or disqualification shall cease; provided however, that should a vacancy occur in the office of an elected Municipal Judge more than six (6) months before a general municipal election, then a special election shall be held to fill such vacancy; and in case of vacancy in the office of an elected Municipal Judge within less than six (6) months of a general municipal election, the office may be filled by a competent, eligible person designated by the Mayor of the Board of Aldermen or as provided in Subsection (B) of this Section.
- B. The Presiding Judge of the Circuit Court may appoint any other Municipal Judge within the Circuit to act as a special Municipal Judge for a Municipal Judge of the Circuit who is absent, sick or disqualified from acting. The Presiding Judge shall act only upon request of the Mayor of the Board of Aldermen for a special Municipal Judge.
- C. The Governing Body of the municipality shall provide by ordinance for the compensation of any person designated to act as Municipal Judge under the provisions of this Section.

SECTION 125.260: FAILURE TO APPEAR

- A. It shall be unlawful for any person to fail to appear in the Municipal Court of Mount Vernon, Missouri, if:
 1. Said person has been issued a summons for violation of any ordinance of the City of Mount Vernon, Missouri, and fails to appear before the Judge of the Mount Vernon Municipal Court at the time and on the date on which said person was summoned or at the time and on the date to which the case was continued;
 2. Said person has been released upon recognition of bond and fails to appear before the Judge of the Municipal Court of Mount Vernon, Missouri, at the time and on the date on which said person was summoned or at the time and on the date to which the case was continued;
 3. Said person has been placed on Court-supervised probation and fails to appear before the Judge

of the Municipal Court of Mount Vernon, Missouri, at the time specified by said Judge as a condition of the probation.

- B. Any person violating any of the provisions of this Section shall be deemed guilty of a misdemeanor and upon conviction shall be fined a sum not exceeding five hundred dollars (\$500.00) or imprisoned for a term not exceeding ninety (90) days, or by both such fine and imprisonment.
- C. Nothing contained in this Section shall prevent the exercise by the Municipal Court of its power to punish for contempt. (Ord. No. 3.31 §§1-3, 4-9-96)

ARTICLE II. COURT CLERK

SECTION 125.270: CLERK OF MUNICIPAL COURT

The Mayor of the City of Mount Vernon, Missouri, shall appoint the Clerk of the Municipal Court, subject to the approval of the Board of Aldermen of the City of Mount Vernon, Missouri. The Board of Aldermen of the City of Mount Vernon, Missouri, shall determine the salary of the Clerk of the Municipal Court by ordinance. The duties of said Clerk shall be as follows:

- .1. To collect such fines for violations of such offenses as may be described and the Court costs thereof;
- .2. To take oaths and affirmations;
- .3. To accept signed complaints and allow the same to be signed and sworn to or affirmed before him/her;
- .4. Sign and issue subpoenas duces tecum;
- .5. Accept the appearance, waiver of trial and plea of guilty and payment of fine and costs in Traffic Violation Bureau cases or as directed by the Municipal Judge; generally act as Violation Clerk of the Traffic Violation Bureau;
- .6. Perform all other duties as provided for by ordinance, by Rules of Practice and Procedure adopted by the Municipal Judge and by the Missouri Rules of Practice and Procedure in Municipal and Traffic Courts and by Statute. (Ord. No. 1.93 §21, 12-12-78)

ARTICLE III. FINES AND COURT COSTS

SECTION 125.280: INSTALLMENT PAYMENT OF FINE

When a fine is assessed for violation of an ordinance, it shall be within the discretion of the Judge assessing the fine to provide for the payment of the fine on an installment basis under such terms and conditions as he/she may deem appropriate.

SECTION 125.290: COURT COSTS

In addition to any fine that may be imposed by the Municipal Judge in any case filed in the Mount Vernon Municipal Division of the 39th Judicial Circuit Court, and in addition to all other fees authorized or required by law, there shall be assessed as costs the following:

- .1. Costs of Court in the amount of twelve dollars (\$12.00).
- .2. *Police Officer training fee.* A fee of three dollars (\$3.00) is hereby established and assessed as additional Court costs in each Court proceeding, except that no such fee shall be collected when the proceedings against the defendant have been dismissed.
 - a. Two dollars (\$2.00) of each such Court cost shall be transmitted monthly to the Treasurer of the City and used to pay for Police Officer training as provided by Sections 590.100 to 590.180, RSMo. The City shall not retain for training purposes more than one thousand five hundred dollars (\$1,500.00) of such funds for each certified Law Enforcement Officer or candidate for certification employed by the City. Any excess funds shall be transmitted quarterly to the City's General Fund.
 - b. One dollar (\$1.00) of each such Court cost shall be sent to the State Treasury to the credit of the Peace Officers Standards and Training Commission Fund created by Section 590.178, RSMo.
- .3. *Crime Victims' Compensation Fund.* An additional sum of seven dollars fifty cents (\$7.50) shall be assessed and added to the basic costs in Subsection (1) of this Section, provided that no such cost shall be collected in any proceeding when the proceeding or the defendant has been dismissed by the Court. All sums collected pursuant to this Subsection shall be paid at least monthly as follows:
 - a. Ninety-five percent (95%) of such fees shall be paid to the Director of Revenue of the State of Missouri for deposit as provided in Section 595.045.5, RSMo.
 - b. Five percent (5%) shall be paid to the City Treasury.
- .4. Other costs, such as for the issuance of a warrant, a commitment or a summons, as provided before the Associate Circuit Judge in criminal prosecutions.
- .5. Actual costs assessed against the City by the County Sheriff for apprehension or confinement in the County Jail.
- .6. Mileage, in the same amount as provided to the Sheriff in criminal violations, for each mile and fraction thereof the officer must travel (both directions) in order to serve any warrant or commitment or order of this Court.
- .7. Any other reasonable cost as may be otherwise provided by ordinance including, but not limited to, costs of confinement, including any necessary transportation related thereto, medical costs incurred by the City while a defendant is in City custody, and costs related to the arrest and testing of any person for any intoxication-related traffic offense as set out in Subsection (9) hereof.
- .8. *Reimbursement of certain costs of arrest.*

- a. Upon a plea or a finding of guilty of violating the provisions of Sections 342.020 or 342.030 of this Code or any ordinance of the City of Mount Vernon involving alcohol- or drug-related traffic offenses, the Court may, in addition to imposition of any penalties provided by law, order the convicted person to reimburse the Police Department for the costs associated with such arrest.
 - b. Such costs hereby authorized shall include the reasonable cost of making the arrest, including the cost of any chemical test made as authorized or required by law or ordinance to determine the alcohol or drug content of the person's blood, and the costs of processing, charging, booking and holding such person in custody.
 - c. The Chief of Police shall establish a schedule of such costs hereby authorized and shall submit the same to the Municipal Judge. However, the Court may order the costs reduced if it determines that the costs are excessive.
 - d. Upon receipt of such additional costs authorized by this Subsection, the City Treasurer shall retain such costs in a separate fund to be known as the "DWI/Drug Offense Cost Reimbursement Fund". Monies with such fund shall be appropriated by the Board of Aldermen to the Police Department in amounts equal to those costs so collected and shall be used by such department specifically to enhance and support the enforcement and prosecution of alcohol- and drug-related traffic laws within the City.
- .9. *Work/construction zone.* Any person who is convicted or pleads guilty to a speeding violation or passing/overtaking a vehicle in a work/construction zone when there was any person present performing duties in the work/construction zone and appropriate signs were posted stating "Warning: \$250 fine for speeding or passing in this work zone" shall be assessed a fine of two hundred fifty dollars (\$250.00) in addition to any other fine assessed; except that any person assessed the two hundred fifty dollar (\$250.00) fine shall not also be assessed the thirty-five dollar (\$35.00) fine for any of the following offenses in a construction or work zone: any moving violation or violation of speeding, leaving the scene, careless and imprudent driving, operating without a valid license, operating with a suspended or revoked license, obtaining a license by misrepresentation, driving while intoxicated, under the influence or BAC, any felony offense involving the use of a vehicle, or failure to maintain financial responsibility.

CHAPTER 130: BOARDS, COMMISSIONS AND COMMITTEES

ARTICLE I. PARKS AND RECREATION BOARD

SECTION 130.010: SELECTION, TERM, QUALIFICATIONS AND COMPOSITION OF BOARD

Pursuant to the provisions of Chapter 79.110, RSMo., there is hereby created a Parks and Recreation Board which shall consist of nine (9) members who shall serve without compensation. Except for the original Board and provisions for original terms as set out hereinafter, each Board member shall serve for a three (3) year term. The members of the Board, who shall hold no other public office, shall be appointed by the Mayor and confirmed by a majority of the membership of the Board of Aldermen of the City of Mount Vernon, Missouri. The first (1st) Board appointed by the Mayor shall be composed of seven (7) members, three (3) members to be appointed for a one (1) year term, three (3) members to be appointed for a two (2) year term and three (3) members to be appointed for a three (3) year term. Any vacancy due to any cause, other than expiration of term, shall be filled for the unexpired term by appointment as stipulated above. (Ord. No. 8.06 §1, 7-19-75)

SECTION 130.020: POWERS AND DUTIES OF THE BOARD

The Parks and Recreation Board shall serve in an advisory capacity to the Mayor and the Board of Aldermen or such designated representative in scheduling and coordinating activities at the parks and recreation system within the City limits of the City of Mount Vernon, Missouri; and the Parks and Recreation Board shall recommend to the Board of Aldermen of the City of Mount Vernon, Missouri, through the Mayor of the City of Mount Vernon, Missouri:

- .1. The sale of any lands owned by the City for parks and recreation purposes and which are considered no longer needed for such purposes.
- .2. The acquisition by condemnation or purchase of any additional lands needed for parks and recreation and considered useful for such purposes.
- .3. The acceptance of any gift of lands and equipment for parks and recreation and deemed useful for such purposes.
- .4. The solicitation or acceptance of gifts or bequests of money or other personal property or any donation to be applied, principal or income, for either temporary or permanent use for park and recreational purposes. (Ord. No. 8.09 §1, 4-18-80)

SECTION 130.030: REPORTS TO THE MAYOR AND BOARD OF ALDERMEN

The Parks and Recreation Board shall submit full and complete annual reports to the Mayor and the Board of Aldermen of the City of Mount Vernon, Missouri, and shall submit such other reports as the Board or the Mayor and the Board of Aldermen may deem desirable. The reports shall be submitted to the Board of Aldermen of the City of Mount Vernon, Missouri, through the Mayor of the City of Mount Vernon, Missouri. (Ord. No. 8.09 §3, 4-18-80)

ARTICLE II. CITY CEMETERY BOARD**SECTION 130.040: CITY CEMETERY—LOT—BOARD**

- A. The City of Mount Vernon, Missouri, is the owner and has acquired for use as a public cemetery the following described tract of land situate in Lawrence County, Missouri, to wit:

A small tract of land in the southeast corner of the northeast quarter (NE $\frac{1}{4}$) of the southwest quarter (SW $\frac{1}{4}$) of Section 30, Township 28, Range 26 which lies south of the right-of-way of the St. Louis and San Francisco Railway and east of the mill switch of said right-of-way, running from said railroad right-of-way southeasterly to Holland and O'Neal Milling Company in Mount Vernon, Missouri, and north of the City cemetery and containing three (3) acres, more or less.

For the proper control and management of said tract of land for public cemetery purposes, there is hereby created a Board of Trustees, which shall consist of three (3) members, who shall be appointed by the Mayor with the advice and consent of the Board of Aldermen and, when so appointed, shall serve at the pleasure of the Board of Aldermen and until their successors are appointed and qualified. Members of the Board shall be residents of the City of Mount Vernon.

- B. It shall be the duty of the Board of Trustees to survey and plat the tract of land described in Subsection (A) hereof, dividing the same into lots of appropriate size for burial purposes and to file plat of same for record with the Recorder of Deeds of Lawrence County. The Board of Trustees shall have power to sell, for cash only, burial lots in said cemetery and to deliver deeds therefor to the purchaser properly executed by the Mayor and City Clerk. All funds received from the sale of burial lots shall be held as a trust fund by said Board of Trustees and may be used by them, in their discretion, for the care and upkeep of said cemetery. Any surplus funds not needed for the care of said cemetery may be invested by said Trustees in postal savings certificates, United States or State of Missouri bonds or adequately secured real estate mortgages. The Board of Trustees shall make an annual settlement with the Board of Aldermen and shall accurately account for all money received and expended by them.
- C. The Board of Trustees herein created shall have the power and duty to control and manage said City cemetery and may prescribe rules and regulations governing the same, including such matters as depth of graves, manner of interments, grading, kind and construction of monuments and markers, varieties and planting of shrubs and plants, and all other proper rules for the protection and convenience of the public in the use of said City cemetery. All such rules and regulations shall be in writing, signed by the members of said Board of Trustees and filed with the City Clerk and shall have the force and effect of ordinances. All sales of burial lots, as provided in Subsection (B) hereof, and all deeds for same shall be expressed to be subject to such rules and regulations now or hereafter prescribed by the Board of Trustees and such rules and regulations shall have the force and effect of covenants running with the title to said lots. (Ord. No. 8.03 §§1-3, 7-5-39)

CHAPTER 135: PURCHASING AND PROCUREMENT POLICY

SECTION 135.010: GENERALLY

The purchasing and procurement policy for the City of Mount Vernon has been adopted as an administrative tool for the City and is on file in the City offices.

CHAPTER 140: TAXATION AND FINANCE

ARTICLE I. FISCAL YEAR

SECTION 140.010: FISCAL YEAR ESTABLISHED

The fiscal year for the City of Mount Vernon shall begin July first (1st) of each year and all City budgets, audits and other statutory requirements shall be prepared on a July first (1st) to June thirtieth (30th) fiscal year and all required matters concerning same be required to use such dates for those statutory and other necessary purposes.

ARTICLE II. BUDGET

SECTION 140.020: BUDGET REQUIRED—CONTENTS—EXPENDITURES NOT TO EXCEED REVENUES

- A. Prior to the commencement of each fiscal year, a budget for the City shall be prepared and the same will be presented to and approved by the Board of Aldermen.
- B. The annual budget shall present a complete financial plan for the ensuing fiscal year and shall include at least the following information:
 1. A budget message describing the important features of the budget and major changes from the preceding year;
 2. Estimated revenues to be received from all sources for the budget year, with a comparative statement of actual or estimated revenues for the two (2) years next preceding, itemized by year, fund and source;
 3. Proposed expenditures for each department, office, commission, and other classification for the budget year, together with a comparative statement of actual or estimated expenditures for the two (2) years next preceding, itemized by year, fund, activity and object;
 4. The amount required for the payment of interest, amortization and redemption charges on the debt of the City; and
 5. A general budget summary.
- C. In no event shall the total proposed expenditures from any fund exceed the estimated revenues to be received plus any unencumbered balance or less any deficit estimated for the beginning of the budget year; provided, that nothing herein shall be construed as requiring the City to use any cash balance as current revenue or to change from a cash basis of financing its expenditures.

SECTION 140.030: BUDGET OFFICER

- A. The budget shall be prepared under the direction of a Budget Officer. Except as otherwise provided by law or ordinance, the Budget Officer shall be designated by the Board of Aldermen of the City.

All officers and employees shall cooperate with and provide to the Budget Officer such information and such records as he/she shall require in developing the budget. The Budget Officer shall review all the expenditure requests and revenue estimates, after which he/she shall prepare the proposed budget as defined herein.

- B. After the Budget Officer has prepared the proposed budget, he/she shall submit it, along with such supporting schedules, exhibits, and other explanatory material as may be necessary for the proper understanding of the financial needs and position of the City, to the Board of Aldermen. He/she shall submit at the same time complete drafts of such orders, motions, resolutions or ordinances as may be required to authorize the proposed expenditures and produce the revenues necessary to balance the proposed budget.

SECTION 140.040: BOARD OF ALDERMEN MAY REVISE BUDGET, LIMITS—APPROVAL

The Board of Aldermen may revise, alter, increase or decrease the items contained in the proposed budget, subject to such limitations as may be provided by law; provided, that in no event shall the total authorized expenditures from any fund exceed the estimated revenues to be received plus any unencumbered balance or less any deficit estimated for the beginning of the budget year. Except as otherwise provided by law, the Board of Aldermen shall, before the beginning of the fiscal year, approve the budget and approve or adopt such orders, motions, resolutions or ordinances as may be required to authorize the budgeted expenditures and produce the revenues estimated in the budget.

SECTION 140.050: INCREASE OF EXPENDITURE OVER BUDGETED AMOUNT TO BE MADE ONLY ON FORMAL RESOLUTION

After the City has approved the budget for any year and has approved or adopted the orders, motions, resolutions or ordinances required to authorize the expenditures proposed in the budget, the City shall not increase the total amount authorized for expenditure from any fund, unless the Board of Aldermen adopts a resolution setting forth the facts and reasons making the increase necessary and approves or adopts an order, motion, resolution or ordinance to authorize the expenditures.

ARTICLE III. LEVY OF TAXES

SECTION 140.060: BOARD TO PROVIDE FOR LEVY AND COLLECTION OF TAXES—FIX PENALTIES

The Board of Aldermen shall, from time to time, provide by ordinance for the levy and collection of all taxes, licenses, wharfage and other duties not herein enumerated and, for neglect or refusal to pay the same, shall fix such penalties as are now or may hereafter be authorized by law or ordinance.

SECTION 140.070: BOARD TO FIX RATE OF LEVY

The Board of Aldermen shall, within a reasonable time after the Assessor's books of each year are returned, ascertain the amount of money to be raised thereon for general and other purposes and fix the annual rate of levy therefor by ordinance.

SECTION 140.080: ASSESSMENT—METHOD OF

In the absence of a City Assessor, and until such City Assessor is duly appointed and qualified, it shall be the duty of the Mayor of the City to procure from the County Clerk of Lawrence County, Missouri, on or before the first (1st) day of October of each year a certified abstract from his/her assessment books of all property within the corporate limits of the City made taxable by law for State purposes and the assessed valuation thereof as agreed upon by the Board of Equalization, which abstract shall be immediately transmitted to the Board of Aldermen, and it shall be the duty of the Board of Aldermen to establish by ordinance the rate of taxes for the year.

SECTION 140.090: CLERK TO PREPARE TAX BOOKS

When the Board of Aldermen shall have fixed the rate of taxation for any given year, it shall be the duty of the City Clerk to cause to be prepared appropriate and accurate tax books and shall therein set out in suitable columns, opposite the name of each person and the item of taxable property, as returned by the Assessor and Board of Equalization, the amount of taxes, whether general or special, due thereon and shall charge the City Collector with the full amount of taxes levied and to be collected.

SECTION 140.100: TAXES DELINQUENT—WHEN

On the first (1st) day of January of each year, all unpaid City taxes shall become delinquent and the taxes on real estate are hereby made a lien thereon; and all such delinquent taxes shall bear interest thereon at the rate of two percent (2%) per month from the time they become delinquent, not to exceed eighteen percent (18%) per year, until paid and shall also be subject to the same fees, penalties, commissions and charges as provided by law of the State of Missouri for delinquent State and County taxes and shall be collected from the property owners, and the enforcement of all taxes, penalties, fees, commissions and charges authorized by law and provided for herein to be paid by property owners shall be made in the same manner and under the same rules and regulations as are or may be provided by law for the collection and enforcement of the payment of State and County taxes, including fees, penalties, commissions and other charges.

ARTICLE IV. CITY TAXES**SECTION 140.110: CITY SALES TAX**

- A. Effective the first (1st) day of April, 1977, there is hereby imposed a City sales tax in the amount of one percent (1%) for the benefit of the City of Mount Vernon, Missouri, on the receipts from the sale at retail of all tangible personal property or taxable services at retail within the City of Mount Vernon, which property and services are subject to taxation by the State of Missouri under the provisions of Sections 144.010 to 144.510, RSMo., as provided for in Sections 94.500 through 94.570, RSMo.
- B. The above referred to tax is imposed upon all sellers at retail for the privilege of engaging in the business of selling tangible personal property or rendering taxable services at retail to the extent and in the manner provided in Sections 144.010 to 144.510, RSMo., and the rules and regulations of the Director of Revenue issued pursuant thereto are hereby adopted and made a part hereof. Such tax, when collected, is to be paid to the State Director of Revenue in the same manner as provided

for in Sections 144.010 to 144.510, RSMo., governing the State sales tax except as modified by Sections 94.500 through 94.570, RSMo., the provision of which are hereby adopted and made a part hereof. (Ord. No. 5.52 §§1, 4, 9-1-76; Ord. No. 5.54 §§1–2, 10-19-76)

SECTION 140.120: CAPITAL IMPROVEMENT TAX

- A. Pursuant to Section 94.705, RSMo., a sales tax at the rate of one-half of one percent (0.5%) is hereby imposed on all sellers for the privilege of engaging in the business of selling tangible personal property or rendering taxable services at the retail level to the extent and in the manner provided in Sections 144.010 to 144.510, RSMo., and the rules and regulations of the Director of Revenue issued pursuant thereto. The amount reported and returned to the Director of Revenue by the seller shall be computed on the basis of the combined rate of the tax imposed by Sections 144.010 to 144.510, RSMo., and the tax imposed by this Section, plus any amounts imposed under other provisions by law.
- B. All revenues received by the City from the sales tax herein imposed under the provision of Section 95.705, RSMo., shall be deposited by the City in a special trust fund and shall be used solely for capital improvement purposes.

CHAPTER 145: OPEN MEETINGS AND RECORDS POLICY

ARTICLE I. IN GENERAL

SECTION 145.010: DEFINITIONS

As used in this Chapter, unless the context otherwise indicates, the following terms mean:

CLOSED MEETING, CLOSED RECORD OR CLOSED VOTE: Any meeting, record or vote closed to the public.

COPYING: If requested by a member of the public, copies provided in accord with the cost schedule established by this Article, if duplication equipment is available.

PUBLIC BUSINESS: All matters which relate in any way to performance of the City's functions or the conduct of its business.

PUBLIC GOVERNMENTAL BODY: Any legislative, administrative or governmental entity created by the Constitution or Statutes of this State, orders or ordinances of the City, judicial entities when operating in an administrative capacity or by executive order, including:

- .1. Any advisory committee or commission appointed by the Mayor or Board of Aldermen.
- .2. Any department or division of the City.
- .3. Any other legislative or administrative governmental deliberative body under the direction of three (3) or more elected or appointed members having rulemaking or quasi-judicial power.
- .4. Any committee appointed by or at the direction of any of the entities and which is authorized to report to any of the above-named entities, any advisory committee appointed by or at the direction of any of the named entities for the specific purpose of recommending, directly to the public governmental body's governing board or its Chief Administrative Officer, policy or policy revisions or expenditures of public funds.
- .5. Any quasi-public governmental body. The term "*quasi-public governmental body*" means any person, corporation or partnership organized or authorized to do business in this State pursuant to the provisions of Chapters 352, 353 or 355, RSMo., or unincorporated association which either:
 - a. Has as its primary purpose to enter into contracts with public governmental bodies or to engage primarily in activities carried out pursuant to an agreement or agreements with public governmental bodies; or
 - b. Performs a public function, as evidenced by a statutorily or ordinance-based capacity, to confer or otherwise advance, through approval, recommendation or other means, the allocation or issuance of tax credits, tax abatement, public debt, tax exempt debt, rights of eminent domain, or the contracting of lease-back agreements on structures whose annualized payments commit public tax revenues; or any association that directly accepts the appropriation of money from the City, but only to the extent that a meeting, record or vote relates to such appropriation.

PUBLIC MEETING: Any meeting of a public governmental body subject to this Chapter at which any public business is discussed, decided or public policy formulated, whether corporeal or by means of communication equipment. The term "*public meeting*" shall not include an informal gathering of members of a public governmental body for ministerial or social purposes when there is no intent to avoid the purposes of this Chapter, but the term shall include a vote of all or a majority of the members of a public governmental body, by electronic communication or any other means, conducted in lieu of holding a public meeting with the members of the public governmental body gathered at one (1) location in order to conduct public business.

PUBLIC RECORD: Any record, whether written or electronically stored, retained by or of any public governmental body including any report, survey, memorandum, or other document or study prepared and presented to the public governmental body by a consultant or other professional service 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 said body, unless such records are retained by the public governmental body or presented at a public meeting.

PUBLIC VOTE: Any vote cast at any public meeting of any public governmental body.

SECTION 145.020: MEETINGS, RECORDS AND VOTES TO BE PUBLIC—EXCEPTIONS

All meetings, records and votes are open to the public, except that any meeting, record or vote relating to one (1) or more of the following matters, as well as other materials designated elsewhere in this Chapter, shall be closed unless the public governmental body votes to make them public:

1. Legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives and its attorneys. However, any minutes, vote or settlement agreement relating to legal actions, causes of action or litigation involving a public governmental body or any agent or entity representing its interests or acting on its behalf or with its authority, including any insurance company acting on behalf of a public governmental body as its insured, shall be made public upon final disposition of the matter voted upon or upon the signing by the parties of the settlement agreement, unless, prior to final disposition, the settlement agreement is ordered closed by a court after a written finding that the adverse impact to a plaintiff or plaintiffs to the action clearly outweighs the public policy considerations of Section 610.011, RSMo., however, the amount of any monies paid by, or on behalf of, the public governmental body shall be disclosed; provided however, in matters involving the exercise of the power of eminent domain, the vote shall be announced or become public immediately following the action on the motion to authorize institution of such a legal action. Legal work product shall be considered a closed record.
2. Leasing, purchase or sale of real estate by a public governmental body where public knowledge of the transaction might adversely affect the legal consideration therefor. However, any minutes or vote or public record approving a contract relating to the leasing, purchase or sale of real estate by a public governmental body shall be made public within seventy-two (72) hours after execution of the lease, purchase or sale of the real estate.
3. Hiring, firing, disciplining or promoting of particular employees by a public governmental body when personal information about the employee is discussed or recorded. However, any vote

on a final decision, when taken by a public governmental body, to hire, fire, promote or discipline an employee of a public governmental body must be made available with a record of how each member voted to the public within seventy-two (72) hours of the close of the meeting where such action occurs; provided however, that any employee so affected shall be entitled to prompt notice of such decision during the seventy-two (72) hour period before such decision is made available to the public. As used in this Subsection, the term "*personal information*" means information relating to the performance or merit of individual employees.

- .4. Non-judicial mental or physical health proceedings involving an identifiable person, including medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment.
- .5. Testing and examination materials, before the test or examination is given or, if it is to be given again, before so given again.
- .6. Welfare cases of identifiable individuals.
- .7. Preparation, including any discussions or work product, on behalf of a public governmental body or its representatives for negotiations with employee groups.
- .8. Software codes for electronic data processing and documentation thereof.
- .9. Specifications for competitive bidding, until either the specifications are officially approved by the public governmental body or the specifications are published for bid.
- .10. Sealed bids and related documents, until the bids are opened; and sealed proposals and related documents or any documents related to a negotiated contract until a contract is executed, or all proposals are rejected.
- .11. Individually identifiable personnel records, performance ratings or records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries and lengths of service of officers and employees of public agencies once they are employed as such.
- .12. Records which are protected from disclosure by law.
- .13. Meetings and public records relating to scientific and technological innovations in which the owner has a proprietary interest.
- .14. Records relating to municipal hotlines established for the reporting of abuse and wrongdoing.
- .15. Confidential or privileged communications between a public governmental body and its auditor, including all auditor work product.
- .16. A municipal utility receiving a public records request for information about existing or proposed security systems and structural plans of real property owned or leased by the municipal utility, the public disclosure of which would threaten public safety, shall within three (3) business days act upon such public records request pursuant to Section 610.023, RSMo. Records related to the procurement of or expenditures relating to security systems shall be open except to the extent provided in this Section.

17. Existing or proposed security systems and structural plans of real property owned or leased by a public governmental body, the public disclosure of which would threaten public safety. Records related to the procurement of or expenditures relating to security systems shall be open except to the extent provided in this Section. When seeking to close information pursuant to this exception, the public governmental body shall affirmatively state in writing that disclosure would impair the public governmental body's ability to protect the security or safety of persons or real property and shall in the same writing state that the public interest in non-disclosure outweighs the public interest in disclosure of the records. This exception shall sunset on December 31, 2006.
18. Records that identify the configuration of components or the operation of a computer, computer system, computer network or telecommunications network and would allow unauthorized access to or unlawful disruption of a computer, computer system, computer network or telecommunications network of a public governmental body. This exception shall not be used to limit or deny access to otherwise public records in a file, document, data file or database containing public records. Records related to the procurement of or expenditures relating to such computer, computer system, computer network or telecommunications network, including the amount of monies paid by, or on behalf of, a public governmental body for such computer, computer system, computer network or telecommunications network, shall be open except to the extent provided in this Section.
19. Credit card numbers, personal identification numbers, digital certificates, physical and virtual keys, access codes or authorization codes that are used to protect the security of electronic transactions between a public governmental body and a person or entity doing business with a public governmental body. Nothing in this Section shall be deemed to close the record of a person or entity using a credit card held in the name of a public governmental body or any record of a transaction made by a person using a credit card or other method of payment for which reimbursement is made by a public governmental body.

SECTION 145.030: RECORDS PERTAINING TO INTERNAL INVESTIGATIONS AND INVESTIGATIONS OF ALLEGEDLY ILLEGAL CONDUCT

In order to allow the fullest cooperation by employees and members of the public in investigation of matters wherein an employee of the City is alleged to have engaged in any form of misconduct, all files, records and documents relating to investigations of allegations of misconduct by City employees will be considered to be personnel records and shall be closed records under the custody of the respective department head.

SECTION 145.040: RECORDS PERTAINING TO MEDICAL CONDITION OR HISTORY

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:

- .1. Supervisors and managers may be informed regarding necessary restrictions on the work duties of employees and necessary accommodations;
- .2. First aid and safety personnel may be informed, when appropriate, if the information reflects the existence of a disability which might require emergency treatment; or

- .3. Government officials investigating compliance with State or Federal law pertaining to treatment of persons with disabilities may be allowed access to such records.

SECTION 145.050: RECORDS CONTAINING CONFIDENTIAL, PROPRIETARY OR PRIVATE INFORMATION

- A. In order to protect reasonable expectations of privacy on the part of persons having dealings with the City, City records containing information or entries of a personal, confidential, private or proprietary nature including, but not limited to, income, sales data, financial circumstances, household and family relationships, social security numbers, dates of birth, insurance information and other information which reasonable persons generally regard as private and not a customary subject for public discourse, which information or entries have been provided to the City by one complying with regulations requiring the disclosure of such information, shall be excised from copies of City records disclosed or provided to members of the public other than those persons to whom the information of entries pertain. Persons desiring access to information or entries excised from such records may file a supplementary written request with the City Clerk for disclosure of material to be specified in the request, which request should state:
 1. Whether or not the requesting party has informed persons to whom the requested information pertains of the request; and
 2. All reasons why the requesting party believes disclosure by the City of the specified information is in the public interest.
- B. The City Clerk may afford all interested parties, including the persons to whom the information pertains, a reasonable time within which to comment on the requested disclosure prior to acting further on the request. If an interested person objects to the disclosure of the requested information, the City Clerk may conduct a hearing at which all interested parties may be heard. At such hearing the Clerk shall consider, among such other factors as may be reasonable and relevant:
 1. The requirements and intent of State law, City ordinances and this policy;
 2. The legitimate expectations of privacy on the part of interested parties;
 3. The personal, confidential, private or proprietary nature of the information at issue;
 4. Whether the information was obtained by the City under compulsion of law or was freely and voluntarily provided by the persons objecting to the disclosure; and
 5. The public purposes to be served by disclosure of the requested information.

If the City Clerk determines that disclosure is legally required or would otherwise serve the best interests of the public and that such requirements or purpose outweigh the legitimate concerns or interest of the persons to whom the information pertains, the Clerk shall provide the requested information to the requesting party.

- C. In addition to or in lieu of the hearing described above, the City Clerk may afford all interested parties a reasonable opportunity to seek judicial review of or relief from the proposed disclosure. The City Clerk may also utilize the procedures for judicial determination and/or opinion solicitation provided in Section 145.120.

SECTION 145.060: NOTICES OF MEETINGS

- A. All public governmental bodies shall give notice of the time, date and place of each meeting and its tentative agenda in a manner reasonably calculated to advise the public of the matters to be considered. Reasonable notice shall include making available copies of the notice to any representative of the news media who requests notice of meetings of a particular public governmental body concurrent with the notice being made available to the members of the particular governmental body and posting the notice on the appropriate bulletin board at the City Hall.
- B. Notice conforming with all of the requirements of Subsection (A) of this Section shall be given at least twenty-four (24) hours, exclusive of weekends and holidays when City Hall is closed, prior to the commencement of any meeting of a governmental body unless for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible shall be given.
- C. Each governmental body proposing to hold a closed meeting or vote shall give notice of the time, date and place of such closed meeting or vote and the reason for holding it by reference to a specific exception allowed pursuant to Section 145.020 hereof. The notice shall be the same as described in Subsection (A) herein.
- D. A formally constituted subunit of a parent governmental body may conduct a meeting without notice during a lawful meeting of the parent governmental body, a recess in that meeting, or immediately following that meeting if the meeting of the subunit is publicly announced at the parent meeting and the subject of the meeting reasonably coincides with the subjects discussed or acted upon by the parent governmental body.

SECTION 145.070: CLOSED MEETINGS—HOW HELD

- A. Except as set forth in Subsection (C) of Section 145.060, no meeting or vote may be closed without an affirmative public vote of the majority of a quorum of the public governmental body. The vote of each member of the governmental body on the question of closing a public meeting or vote and the specific reason for closing that public meeting or vote by reference to a specific Section of this Chapter shall be announced publicly at an open meeting of the governmental body and entered into the minutes.
- B. Any meeting or vote closed pursuant to Section 145.020 shall be closed only to the extent necessary for the specific reason announced to justify the closed meeting or vote. Public governmental bodies shall not discuss any business in a closed meeting, record or vote. Public governmental bodies holding a closed meeting must close only an existing portion of the meeting facility necessary to house the members of the public governmental body in the closed session, allowing members of the public to remain to attend any subsequent open session held by the public governmental body following the closed session.

SECTION 145.080: JOURNALS OF MEETINGS AND RECORDS OF VOTING

- A. Except as provided in Section 145.020, rules authorized pursuant to Article III of the Missouri Constitution and as otherwise provided by law, all votes shall be recorded, and if a roll call is taken, as to attribute each "yea" and "nay" vote, or abstinence if not voting, to the name of the individual member of the public governmental body. Any votes taken during a closed meeting shall be taken by roll call. All public meetings shall be open to the public and public votes and public records shall be open to the public for inspection and duplication.

- B. A journal or minutes of open meetings shall be taken and retained by the public governmental body including, but not limited to, a record of any vote taken at such meeting. The minutes shall include the date, time, place, members present, members absent, and a record of votes taken. When a roll call vote is taken, the minutes shall attribute each "yea" and "nay" vote, or abstinence if not voting, to the name of the individual member of the public governmental body.

SECTION 145.090: ACCESSIBILITY OF MEETINGS

- A. Each meeting shall be held at a place reasonably accessible to the public and of sufficient size to accommodate the anticipated attendance by members of the public and at a time reasonably convenient to the public unless for good cause such a place or time is impossible or impractical. At any public meeting conducted by telephone or other electronic means, the public shall be allowed to observe and attend the public meeting at a designated location identified in the notice of the meeting. Every reasonable effort shall be made to grant special access to the meeting to handicapped or disabled individuals.
- B. When it is necessary to hold a meeting on less than twenty-four (24) hours' notice, or at a place that is not reasonably accessible to the public, or at a time that is not reasonably convenient to the public, the nature of the good cause justifying that departure from the normal requirements shall be stated in the minutes.

SECTION 145.100: SEGREGATION OF EXEMPT MATERIAL

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

SECTION 145.110: CUSTODIAN DESIGNATED—RESPONSE TO REQUEST FOR ACCESS TO RECORDS

- A. The City Clerk shall be the custodian of records and will be responsible for maintenance and control of all records. The custodian may designate deputy custodians in operating departments of the City and such other departments or offices as the custodian may determine. Deputy custodians shall conduct matters relating to public records and meetings in accord with the policies enumerated herein.
- B. The custodian shall provide public access to all public records as soon as possible but no later than the end of the third (3rd) business day following the date the request is received by the custodian. If additional delay is necessary, the custodian shall give an explanation for the delay and the place and the earliest time and date the record will be available for inspection.

- C. If a request for access is denied, the custodian shall provide, upon request, a written statement of the grounds for such denial. Such statement shall cite the specific provision of law under which access is denied and shall be furnished to the requester no later than the end of the third (3rd) business day following the date that the request for the statement is received.

SECTION 145.120: PROCEDURES FOR RESOLVING QUESTIONS OF PUBLIC ACCESSIBILITY

A public governmental body or record custodian in doubt about the legality of closing a particular meeting, record or vote may, subject to approval by the Board of Aldermen, bring suit at the expense of the public governmental body in the Circuit Court for the County of Lawrence to ascertain the propriety of such action. In addition, subject to approval by the Board of Aldermen, the public governmental body or custodian may seek a formal opinion of the Attorney General or an attorney for the City regarding the propriety of such action. In such events, the proposed closed meeting or public access to the record or vote shall be deferred for a reasonable time pending the outcome of the actions so taken.

SECTION 145.130: FEES

The custodian shall charge twenty-five cents (\$.25) per page for duplication costs; provided however, the Mount Vernon Police Department shall charge three dollars (\$3.00) per police report and no hourly charge for document search shall be levied for such documents. Said fees for copying public records shall not exceed the actual cost of document search and duplication. Upon request, the public governmental body shall certify in writing that the actual cost of document search and duplication is fair, reasonable and does not exceed the actual cost incurred by the public governmental body. The custodian may require payment prior to duplicating any documents.

**ARTICLE II. LAW ENFORCEMENT ARREST REPORTS AND RECORDS,
INCIDENT REPORTS, ETC.**

SECTION 145.140: DEFINITIONS

As used in this Article, the following terms shall have the following definitions:

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

ARREST REPORT: A record of a law enforcement agency of an arrest and of any detention or confinement incident thereto together with the charge therefor.

INACTIVE: An investigation in which no further action will be taken by a law enforcement agency or officer for any of the following reasons:

- .1. A decision by the law enforcement agency not to pursue the case.

- .2. Expiration of the time to file criminal charges pursuant to the applicable statute of limitations or ten (10) years after the commission of the offense, whichever date earliest occurs.
- .3. Finality of the convictions of all persons convicted on the basis of the information contained in the investigative report, by exhaustion of or expiration of all rights of appeal of such persons.

INCIDENT REPORT: A record of a law enforcement agency consisting of the date, time, specific location, name of the victim, and immediate facts and circumstances surrounding the initial report of a crime or incident, including any logs of reported crimes, accidents and complaints maintained by that agency.

INVESTIGATIVE REPORT: A record, other than an arrest or incident report, prepared by personnel of a law enforcement agency inquiring into a crime or suspected crime either in response to an incident report or in response to evidence developed by Law Enforcement Officers in the course of their duties.

SECTION 145.150: POLICE DEPARTMENT RECORDS

- A. The Police Department of the City shall maintain records of all incidents reported to the Police Department and investigations and arrests made by the Police Department. All incident reports and arrest reports shall be open records. Notwithstanding any other provision of law other than the provisions of Subsection (C) of this Section or Section 320.083, RSMo., investigative reports of the Police Department are closed records until the investigation becomes inactive. If any person is arrested and not charged with an offense against the law within thirty (30) days of the person's arrest, the arrest report shall thereafter be a closed record except that the disposition portion of the record may be accessed except as provided in Section 145.170.
- B. Except as provided in Subsections (C) and (D) of this Section, if any portion of a record or document of a Police Department Officer or the Police Department, other than an arrest report, which would otherwise be open, contains information that is reasonably likely to pose a clear and present danger to the safety of any victim, witness, undercover officer or other person; or jeopardize a criminal investigation, including records which would disclose the identity of a source wishing to remain confidential or a suspect not in custody; or which would disclose techniques, procedures or guidelines for Police Department investigations or prosecutions, that portion of the record shall be closed and shall be redacted from any record made available pursuant to this Chapter.
- C. Any person, attorney for a person, or insurer of a person involved in any incident or whose property is involved in an incident may obtain any records closed pursuant to this Section or Section 145.170 for purposes of investigation of any civil claim or defense as provided by this Subsection. Any individual, his/her attorney or insurer involved in an incident or whose property is involved in an incident, upon written request, may obtain a complete unaltered and unedited incident report concerning the incident and may obtain access to other records closed by the Police Department pursuant to this Section. Within thirty (30) days of such request, the Police Department shall provide the requested material or file a motion pursuant to this Subsection with the Circuit Court having jurisdiction over the Police Department stating that the safety of the victim, witness or other individual cannot be reasonably ensured, or that a criminal investigation is likely to be jeopardized. Pursuant to Section 610.100(4), RSMo., if, based on such motion, the court finds for the Police Department, the court shall either order the record closed or order such portion of the record that should be closed to be redacted from any record made available pursuant to this Subsection.

- D. The victim of an offense as provided in Chapter 566, RSMo., may request that his/her identity be kept confidential until a charge relating to such incident is filed.

SECTION 145.160: EFFECT OF NOLLE PROS, DISMISSAL AND SUSPENDED IMPOSITION OF SENTENCE ON RECORDS

If the person arrested is charged but the case is subsequently nolle prossed, dismissed, or the accused is found not guilty, or imposition of sentence is suspended in the court in which the action is prosecuted, official records pertaining to the case shall thereafter be closed records when such case is finally terminated, except as provided in Section 145.170 and except that the court's judgment or order or the final action taken by the prosecutor in such matters may be accessed. If the accused is found not guilty due to mental disease or defect pursuant to Section 552.030, RSMo., official records pertaining to the case shall thereafter be closed records upon such findings, except that the disposition may be accessed only by law enforcement agencies, child care agencies, facilities as defined in Section 198.006, RSMo., and in-home services provider agencies as defined in Section 660.250, RSMo., in the manner established by Section 145.170.

SECTION 145.170: PUBLIC ACCESS OF CLOSED ARREST RECORDS

- A. Records required to be closed shall not be destroyed; they shall be inaccessible to the general public and to all persons other than the defendant except as provided in this Section and Section 43.507, RSMo. The closed records shall be available to: criminal justice agencies for the administration of criminal justice pursuant to section 43.500, RSMo., criminal justice employment, screening persons with access to criminal justice facilities, procedures, and sensitive information; to law enforcement agencies for issuance or renewal of a license, permit, certification, or registration of authority from such agency including but not limited to watchmen, security personnel, private investigators, and persons seeking permits to purchase or possess a firearm; those agencies authorized by section 43.543, RSMo., to submit and when submitting fingerprints to the central repository; the Sentencing Advisory Commission created in Section 558.019, RSMo., for the purpose of studying sentencing practices in accordance with Section 43.507, RSMo.; to qualified entities for the purpose of screening providers defined in Section 43.540, RSMo.; the Department of Revenue for driver license administration; the Division of Workers' Compensation for the purposes of determining eligibility for crime victims' compensation pursuant to Sections 595.010 to 595.075, RSMo., Department of Health and Senior Services for the purpose of licensing and regulating facilities and regulating in-home services provider agencies and Federal agencies for purposes of criminal justice administration, criminal justice employment, child, elderly, or disabled care, and for such investigative purposes as authorized by law or presidential executive order.
- B. These records shall be made available only for the purposes and to the entities listed in this Section. A criminal justice agency receiving a request for criminal history information under its control may require positive identification, to include fingerprints of the subject of the record search, prior to releasing closed record information. Dissemination of closed and open records from the Missouri criminal records repository shall be in accordance with Section 43.509, RSMo. All records which are closed records shall be removed from the records of the Police Department and Municipal Court which are available to the public and shall be kept in separate records which are to be held confidential and, where possible, pages of the public record shall be retyped or rewritten omitting those portions of the record which deal with the defendant's case. If retyping or rewriting is not feasible because of the permanent nature of the record books, such record entries shall be blacked out and recopied in a confidential book.

SECTION 145.180: "911" TELEPHONE REPORTS

Excepted as provided by this Section, any information acquired by the Police Department by way of a complaint or report of a crime made by telephone contact using the emergency number "911" shall be inaccessible to the general public. However, information consisting of the date, time, specific location, and immediate facts and circumstances surrounding the initial report of the crime or incident shall be considered to be an incident report and subject to Section 145.150. Any closed records pursuant to this Section shall be available upon request by law enforcement agencies or the Division of Workers' Compensation or pursuant to a valid court order authorizing disclosure upon motion and good cause shown.

SECTION 145.190: DAILY LOG OR RECORD MAINTAINED BY POLICE DEPARTMENT OF CRIMES, ACCIDENTS OR COMPLAINTS—PUBLIC ACCESS TO CERTAIN INFORMATION

- A. Except as provided in Subsection (B) of this Section, the City of Mount Vernon Police Department, if it maintains a daily log or record that lists suspected crimes, accidents or complaints, shall make available the following information for inspection and copying by the public:
1. The time, substance and location of all complaints or requests for assistance received by the Police Department;
 2. The time and nature of the Police Department's response to all complaints or requests for assistance; and
 3. If the incident involves an alleged offense or infraction:
 - a. The time, date and location of occurrence;
 - b. The name and age of any victim, unless the victim is a victim of a crime under Chapter 566, RSMo.;
 - c. The factual circumstances surrounding the incident; and
 - d. A general description of any injuries, property or weapons involved.
- B. The Police Department, having custody of an accident report or incident report as defined in Section 145.140, shall not release for sixty (60) days after the date of the accident or incident the report containing the factual circumstances or general description of any injuries as provided in paragraphs (c) and (d) of Subdivision (3) of Subsection (A) of this Section to a person that is not an interested party. For the purposes of this Subsection, an "*interested party*" is any law enforcement agency, any person who was involved in the accident or incident, the Street Department of the jurisdiction involved, the owner of any vehicle involved in the accident or incident, the insurance company, physician or family member of any person involved in the accident or incident, or any attorney, or any member of the news media.

