

outline is defined and used in this document

TITLE I. GOVERNMENT CODE

CHAPTER 100: GENERAL PROVISIONS

ARTICLE I. INCORPORATION AND CITY

SEAL

SECTION 100.010: INCORPORATION AS CITY OF FOURTH CLASS

The City of New Franklin was originally formed in 1828. On the 25th day of March, 1835, the City of New Franklin was incorporated as and is now a City of the Fourth Class under the laws of the State of Missouri. (CC 1996 §100.010)

SECTION 100.020: SEAL

The City shall have an official Seal which shall be a metallic disk not more than two and one-half (2½) inches in diameter with the words "City of New Franklin, Missouri" engraved in the border and the word "Seal" engraved across the center. (CC 1996 §100.020)

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 New Franklin, 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 New Franklin, Missouri".

SECTION 100.050: OFFICIAL COPIES OF CODE

At least three (3) copies of the published book shall be kept on file in the office of the City Clerk and kept available for inspection by the public at all reasonable business hours.

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
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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

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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.

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 New Franklin, Missouri.

CERTIFIED MAIL OR CERTIFIED MAIL WITH RETURN RECEIPT REQUESTED: Includes certified mail carried by the United States Postal Service or any parcel or letter carried by an overnight, express or ground delivery service that allows a sender or recipient to electronically track its location and provides record of the signature of the recipient.

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

COUNTY: The words "*the County*" or "*this County*" or "*County*" shall mean the County of Howard, 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 New Franklin, 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*".

OFFENSE: Shall mean and be the same as ordinance violation and is punishable as provided in Section 100.220 of this Code.

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.

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 that all such proceedings shall be conducted according to existing procedural laws.

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

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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. PENALTIES

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.

ARTICLE IV. SOCIAL SECURITY**SECTION 100.230: SOCIAL SECURITY**

- A. It is hereby declared to be the policy and purpose of the City of New Franklin, Missouri, to extend, at the earliest date, to all eligible employees and officials of said City who are not excluded by law or by this Chapter and whether employed in connection with a governmental or proprietary function of said City, the benefits of the system of Federal Old-Age and Survivors Insurance as authorized by the Social Security Act Amendments of 1950 and Sections 105.300 through 105.445, RSMo., and amendments thereof, as the same may be now and hereafter in effect.
- B. The Mayor and City Clerk of the City of New Franklin, Missouri, are hereby authorized and directed, on behalf of this City, to prepare, execute and submit to the Division of Budget and Comptroller of the State of Missouri, as State agency of the State of Missouri, a plan and agreement for extending said benefits to said eligible employees and officials of the City in the form prepared by the State agency and hereby approved and adopted by the Board of Aldermen of this City, which plan and agreement are to become effective upon approval thereof by the State agency and are further authorized and directed to execute agreements and modifications and amendments thereof with said State agency providing for the extension of said benefits to said employees and officials as set forth in said plan and agreement as provided for in Subsection (A) hereof, said plan and agreement to provide that said extension of benefits is to be effective on January 1, 1951.
- C. Commencing on the first (1st) day of the month following the date of the approval of the plan and agreement of this City by the State agency, there shall be deducted from the wages of all employees and officials of the City, to whom the benefits of said system of Federal Old-Age and Survivors Insurance are extended, by virtue of the plan and agreement hereinbefore provided for, the amount of each of said employees' and officials' contributions as determined by the applicable State and Federal laws and by said plan and agreement, the aggregate amount of said deductions to be paid into the Contributions Fund created by Sections 105.300 through 105.445, RSMo.; provided however, that from the first (1st) payment of wages to each of said employees and officials after the benefits of said system have been extended to such employees and officials, there shall be deducted a sum equal to the amount which would have been due and payable from each of said employees and officials had said extension of benefits been provided and effective on January 1, 1951.
- D. Commencing on the first (1st) day of the month following the date of the approval of the plan and agreement of this City by the State agency, there is hereby authorized to be appropriated from the General Fund of the City of New Franklin, Missouri, and there is and shall be appropriated the sum or sums of money necessary to pay the contributions of the City, which shall be due and payable by virtue of the extension of the benefits of the Federal Old-Age and Survivors System to the eligible employees and officials of said City, said sum or sums of money to be paid into the Contributions Fund created by Sections 105.300 through 105.445, RSMo.; provided however, that in making the first (1st) payment to said Contributions Fund, after the benefits of said system have been extended to such employees and officials, said first (1st) payment shall include a sum equal to the amount which would have been due and payable had said extension of benefits been provided and effective on January 1, 1951. The fund from which said appropriation is made will, at all times, be sufficient to pay the contributions of the City by this Section directed to be paid to said Contributions Fund.
- E. The City, from and after the approval of the plan and agreement of this City by the State agency, shall fully comply with and shall keep such records, make such reports and provide such methods

of administration of said plan and agreement as may be required by all applicable State and Federal laws, rules and regulations now and hereafter in effect with respect to the extension of the benefits of the Federal Old-Age and Survivors Insurance System to the employees and officials of this City. For the purpose of administering said plan and agreement, the City Clerk of this City shall be the official who shall make all required reports, keep all records and be responsible for the administration of said plan and agreement on behalf of this City and any and all notices and communications from the State agency to this City with respect to said plan and agreement shall be addressed to "City Clerk, New Franklin, Missouri". (CC 1996 §105.010)

CHAPTER 105: ELECTIONS

ARTICLE I. IN GENERAL

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 1991, and every four (4) years thereafter, a municipal election of the qualified voters of the City of New Franklin shall be held for the purpose of electing a Mayor who shall hold his/her office for a term of four (4) years and until his/her successor is elected and qualified.
- C. 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 New Franklin 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 even-numbered years, a municipal election of the qualified voters of the City of New Franklin 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.
- E. On the first (1st) Tuesday after the first (1st) Monday in April of 1991, and every four (4) years thereafter, a municipal election of the qualified voters of the City of New Franklin shall be held for the purpose of electing a Collector who shall hold his/her office for a term of four (4) 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.

Editor's Note—As to arrearage or delinquency in all taxes, §115.342, RSMo.

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: 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 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 105.060: CITY SUBDIVIDED INTO THREE WARDS

The City of New Franklin is hereby divided into three (3) wards, to be known as Ward 1, 2 and 3 wards as described below.

1. *Ward 1.* All that portion of the City lying north of the centerline of Broadway and east of a line running north from West Broadway along the rear lot lines of the property on the west side of Boggs Street north to the north City limits.
2. *Ward 2.* All that portion of the City lying south of the centerline of Broadway.
3. *Ward 3.* All that portion of the City lying north of the centerline of Broadway and west of a line running north from West Broadway along the rear lot lines of the property on the west

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side of Boggs Street north to the north City limits. (CC 1996 §§110.010–110.040)

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ALDERMEN **CHAPTER 110: MAYOR AND BOARD OF**

ALDERMEN—GENERALLY **ARTICLE I. MAYOR AND BOARD OF**

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.

State Law Reference—As to when aldermen may be elected at large, §79.060, RSMo.

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.

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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 New Franklin, 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

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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:

MEETINGS

- A. The regular meetings of the Board of Aldermen shall be held on the second (2nd) Monday evening of each month beginning at 7:00 P.M.
- B. At the hour appointed for the meeting, the Mayor or in his/her absence the Acting President of the Board shall call the meeting to order. Thereupon the City Clerk shall call the roll of the members and note the absentees and announce whether a quorum be present.
- C. A majority of members elected to the Board of Aldermen shall constitute a quorum for the transaction of business. When a quorum is lacking, a less number may adjourn the meeting to a stated time.
- D. If the Mayor or any member of the Board of Aldermen shall absent himself/herself from any meeting of the Board without good excuse, he/she shall forfeit the sum of twenty-five dollars (\$25.00), which amount shall be deducted from the next installment of his/her salary to fall due.
- E. The Chair shall preserve order and decorum and shall decide all questions of order subject to an appeal to the Board.
- F. Every member who shall be present when a question is put shall vote thereon unless excused by the Board or unless he/she is interested in the matter pending.
- G. No motion shall be debated or put until it is seconded and every motion made and seconded shall be stated by the Chair before any debate thereon and every motion shall be reduced to writing if requested by any member.
- H. These rules may be temporarily suspended by unanimous consent of all members present, if such suspension does not violate any provision of Statute law.
- I. The proceedings of the Board shall be governed by general parliamentary usage in all matters not provided for in the foregoing rules. (CC 1996 §115.010)

CHAPTER 115: CITY OFFICIALS

ARTICLE I. GENERAL PROVISIONS

SECTION 115.010: ELECTIVE OFFICERS—TERMS

The elective officers of the City and their terms shall be those set out in Section 105.020 of this Code.

SECTION 115.020: APPOINTIVE OFFICERS

The Mayor, with the consent and approval of the majority of the members of the Board of Aldermen, shall have power to appoint a City Treasurer, City Attorney, City Assessor, Street Commissioner and Night Watchman and such other officers as he/she may be authorized by ordinance to appoint, and if deemed for the best interests of the City, the Mayor and Board of Aldermen may, by ordinance, employ special counsel to represent the City, either in a case of a vacancy in the office of City Attorney or to assist the City Attorney, and pay reasonable compensation therefor, and the person elected Marshal may be appointed to and hold the office of Street Commissioner.

SECTION 115.030: REMOVAL OF OFFICERS

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. The bond provisions of this Section may be satisfied by the securing of a blanket bond or blanket bonds, approved by the Board of Aldermen, covering such officers by name or position.

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.

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ARTICLE II. CITY CLERK/CITY ADMINISTRATOR

SECTION 115.090: CITY CLERK/CITY ADMINISTRATOR

- A. A person qualified under the laws of the State of Missouri for both positions of City Clerk under Chapter 79, RSMo., and also for the position of City Administrator shall be nominated for the office by the Mayor of the City of New Franklin; such nomination shall be approved by the majority of the Board of Aldermen. Nomination of a person shall be considered "appointment" to the office of City Administrator and shall be considered a "recommendation" for the position of City Clerk, it being understood that the Missouri Statute to provide different procedures for appointment for each of these offices. The approval of the nomination by the Board of Aldermen shall constitute the "election" of the nominee to the office of City Clerk and shall constitute the approval of the person for the office of City Administrator under the different Statutes that govern what in other Cities are two (2) separate offices.
- B. The person appointed to the office of City Clerk/City Administrator (hereinafter "Administrator") shall be at least twenty-five (25) years of age and shall be a resident of the City of New Franklin at the time of the effective date of such appointment and shall have such further qualifications as the Board of Aldermen may from time to time require.
- C. The Administrator shall serve at the pleasure of the appointing authority.
- D. *Duties.*
 - 1. *Administrative office.* The Administrator shall be 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 law of the State of Missouri, the Administrator shall coordinate and generally supervise the operation of all departments of the City of New Franklin.
 - 2. *Purchasing.* The Administrator shall be the purchasing agent for the City of New Franklin and all purchases amounting to less than five hundred dollars (\$500.00) shall be made under his/her direction and supervision and all such purchases shall be made in accordance with purchasing rules approved by the Board of Aldermen.
 - 3. *Budget.* The Administrator shall be the budget officer of the City of New Franklin 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.
 - 4. *Financial reports.* The Administrator shall make monthly reports to the Mayor and the Board relative to the financial condition of the City. Such reports shall show the financial condition of the City in relation to the budget.
 - 5. *Annual report.* The Administrator shall prepare and present to the Mayor and the Board an 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 the Board of Aldermen may require.

6. *Personnel system.* The Administrator shall act as the personnel officer of the City and shall

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recommend an appropriate position classification system and pay plan to the Mayor and Board of Aldermen. The Administrator, after consultation with department heads, shall approve advancements and appropriate pay increases within the approved pay plans and position classification system. The Administrator shall have the power to recommend employment or removal (in accordance with personnel system regulations approved by the Board of Aldermen) all subordinate employees of the City of New Franklin. The Board shall make all final employment decisions.

7. *Board of Aldermen agenda.* The Administrator shall submit to the Mayor and Board of Aldermen a proposed agenda for each Board meeting at least forty-eight (48) hours before the time of the regular Board meeting.
8. *Boards and committees.* The Administrator shall work with all City boards and committees to help coordinate the work of each.
9. *Attend Board of Aldermen meetings.* The Administrator shall attend all meetings of the Board.
10. *Bid specifications.* The Administrator shall supervise the preparation of all bid specifications for services and equipment and receive sealed bids for presentations to the Board of Aldermen.
11. *State and Federal aid programs.* The Administrator shall coordinate Federal and State programs which may have application to the City of New Franklin.
12. *Conference attendance.* The Administrator shall attend State and regional conferences and programs applicable to his/her office and the business of the City of New Franklin, whenever such attendance is directed and approved by the Board of Aldermen and Mayor.
13. *Press releases.* The Administrator shall be responsible for keeping the public informed in the purposes and methods of City Government through all available news media.
14. *Recordkeeping.* The 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 New Franklin and entrusted to his/her care; all such records shall be and remain the property of the City and be open to inspection by the Mayor and Board of Aldermen at all times.
15. *City Clerk duties.* In addition to the foregoing duties, the Administrator shall perform all of the duties and functions required by Missouri Statute to be performed by a Municipal Clerk.
16. *Duties as City Treasurer.* The Administrator shall also serve as City Treasurer and shall perform all of the duties required by Missouri Statutes to be performed by the Treasurer.
17. *Miscellaneous.* In addition to the foregoing, the Administrator shall perform any and all other duties or function prescribed by the Mayor and the Board.

E. *Powers.*

1. *City property.* The Administrator shall have responsibility for all real and personal property of the City of New Franklin. He/she shall have responsibility for all inventories of such property and for the upkeep of all such property. Personal property may be sold only with the

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approval of the Board. Real property may be sold only with approval of the Board of Aldermen by resolution or ordinance.

2. *Set administrative policies.* The 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, shall have power to revoke, suspend or amend any rule or regulation of the administrative service except those prescribed by the Board. The Administrator shall report such policies to the Board.
 3. *Coordinate departments.* The Administrator shall have the power to coordinate the work of all 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.
 4. *Investigate and report.* The 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.
 5. *Coordinate officials.* The Administrator shall have the power to overrule any action taken by a department head and may supersede him/her in functions of his/her office.
 6. The Administrator shall have the power to appear before the Board and address the Board at any meeting.
 7. At no time shall the duties or power of the Administrator supersede the action taken by the Mayor and Board.
- F. *Interference By Member Of The Board Of Aldermen.* No member of the Board shall directly interfere with the conduct of any department or duties of employees subordinate to the Administrator except at the express direct of the Board or with the approval of the Administrator. (CC 1996 §120.020)

ARTICLE III. CITY ATTORNEY

SECTION 115.100: CITY ATTORNEY

- A. At the first (1st) regular meeting of the Board of Aldermen in May of each year or as soon as practicable thereafter, the Mayor, with the advice and consent of the Board, shall appoint a City Attorney, possessing all of the qualifications required by law, who shall serve until the regular May meeting of the following year and until his/her successor is duly chosen.
- B. It shall be the duty of the City Attorney to attend all meetings of the Board of Aldermen; to give such legal advice to the Board and the various officers of the City as may be needed concerning the City's business; to draw all contracts, bonds, ordinances and other papers pertaining to the City's affairs; to prepare all complaints and prosecute all cases arising before the Mayor for violation of the ordinances of the City and to represent the City in all cases, civil or criminal, in which the City is interested.

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- C. The City Attorney when appointed, as heretofore provided, shall receive a salary as set by ordinance. For services representing the City in cases elsewhere, he/she shall receive such compensation as may be agreed upon by him/her and the Board of Aldermen.
- D. In case satisfactory arrangement cannot be made for a resident City Attorney as above provided, the Mayor, with the consent of the Board, may procure elsewhere such legal service as the City may need upon such terms as the Mayor and Board shall deem proper. (CC 1996 §120.030)

ARTICLE IV. CITY COLLECTOR

SECTION 115.110: CITY COLLECTOR

A. Election And Installation In Office.

- 1. There shall be a City Collector who shall serve for a term of four (4) years.
- 2. The Collector shall before entering upon the duties of his/her office take and subscribe an oath that he/she possesses all qualification prescribed by law for his/her office, that he/she will support the Constitution of the United States and of the State of Missouri, the provisions of all laws of the State affecting Cities of the Fourth Class and the ordinances of the City.
- 3. Within fifteen (15) days after his/her election or appointment and before entering upon his/her duties of office, the Collector shall execute a bond in the sum of ten thousand dollars (\$10,000.00) with good and sufficient sureties conditioned that he/she will faithfully and punctually collect and pay over all monies that shall come into his/her hands by virtue of his/her office. The bond shall be approved by the Board and filed and recorded in the office of the Administrator as City Clerk. If such bond is not posted within the time specified, the office of Collector shall immediately be vacant.

B. Duties Of City Collector.

- 1. As soon as may be after the tax book of each year shall have been completed as provided herein, the City Clerk shall deliver same to the Collector and take his/her receipt thereof and charge the Collector with the whole amount of the tax books so delivered to him/her.
- 2. Immediately, after the receipt of the tax books by the Collector, he/she shall prepare a tax statement for each person listed on the tax books, stating thereon the tax due and payable and cause said statement to be mailed to each individual or firm listed, at their last known address, postage prepaid.
- 3. If any taxpayer shall fail or neglect to pay the Collector his/her taxes upon receiving a tax statement, then it shall be the duty of the Collector after the first (1st) day in January then next ensuing to collect and account for, as other taxes, an additional tax as penalty of one percent (1%) per month upon all taxes collected by him/her after the first (1st) day of January, as aforesaid; and in computing said additional tax or penalty a fractional part of the month shall be counted as a whole month.
- 4. Whenever any person shall pay taxes charged on the tax book, the Collector shall enter such

payment in his/her list and give the person paying the same a receipt, specifying the name of the person for whom paid, the amount paid, what year paid for and the property and value thereof on which the same was paid according to its description on the Collector's list, in whole or in part as the case may be, and the Collector shall enter "paid" against each tract or lot when he/she collects the tax thereon. The Collector shall receive taxes on part of any lot, piece or parcel of land charged with taxes provided the person paying such tax shall furnish a particular specification of the part and if the tax on the remainder of such lot or parcel of land shall remain unpaid, the Collector shall enter such specifications on his/her return, to the end that the part of which the tax remains unpaid may be clearly shown. If payment is made on an individual share of real estate, the Collector shall enter on his/her record the owner of such share so as to designate upon whose undivided share the tax has been paid.

5. He/she shall deposit daily in a special City Collector's bank account all monies received by him/her from all sources which may be levied by law, all licenses fees of every description authorized by law to be collected and all monies belonging to the City which may come into his/her possession. He/she shall pay to the City Administrator weekly all monies received.
6. He/she shall collect all City taxes and monies receivable by him/her from all sources which may be levied by law, including receipts from all licenses of every description authorized by law to be collected.
7. He/she shall prepare licenses for all purposes for which licenses are to be required to be issued and when required shall cause the same to be issued, provided however, that before any license shall issue, he/she shall collect from the person applying thereof the license fees allowed the City for issuing the same.
8. He/she shall keep in proper books a full and accurate and complete account of all monies collected or other property received, as well as an account of the transaction including the date, amount, from whom received, to whom disbursed and on what account action was taken. He/she shall keep separate accounts for motor vehicle licenses, merchants and business licenses, cigarette taxes, water services and all taxes which may be levied by law.
9. At the regular meeting of the Board in April of each year the Collector shall provide a yearly report of all his/her activities.
10. Whenever requested by the Mayor and the Board, the Collector shall give in writing an account or report on any of the duties of his/her office or the fiscal affairs of the City. He/she shall exhibit his/her accounts, papers, documents and any and all records whenever requested to the Mayor or any member of the Board.
11. If the City Collector shall willfully neglect or refuse to perform any of the duties enjoined upon him/her by the discharge of his/her official duties or shall by color of his/her office do any act not authorized by law or resolution of the Mayor and Board, he/she shall be guilty of an ordinance violation and upon conviction thereof shall be fined not less than fifty dollars (\$50.00) and not more than five hundred dollars (\$500.00).
12. Notwithstanding the foregoing, the City may with approval of the Board enter into agreements with the County to collect all or part of the tax bill and thereby relieve the City Collector of the duties so undertaken pursuant to the agreement.

- C. *Office Hours.* The office hours of the City Collector shall be from 9:00 A.M. to 12:30 P.M. and 1:30 P.M. to 5:00 P.M. each day Monday through Friday except those days which are regularly designated as City holidays. The City Collector shall maintain his/her office at the City Hall and shall be responsible for keeping said office in a clean and presentable condition.
- D. *The Assessment And Collection Of The Revenue.*
 - 1. The Board shall approve the rate of tax levy by a majority vote, based upon the assessed value of all property within the City made taxable by law for State purposes.
 - 2. He/she shall collect all monies due the City for the collection of refuse and waste material by the City contracted refuse collector and shall maintain a refuse collection and payment record and shall supply each month a record of delinquent accounts to the Board of Aldermen.
 - 3. For the performance of the duties set out herein, he/she shall receive a salary as set by ordinance. (CC 1996 §120.040)

ARTICLE V. CITY SERVICES DIRECTOR

SECTION 115.120: CITY SERVICES DIRECTOR—APPOINTMENT

The City Services Director shall be appointed by the Mayor with the approval of a majority of the members elected to the Board of Aldermen. Said City Services Director shall be at least twenty-one (21) years of age and shall be chosen for his/her competence and experience. He/she shall devote his/her full time to the performance of the duties of the position. (Ord. No. 625 §1, 4-27-98)

SECTION 115.130: DUTIES—MONTHLY REPORTS TO BOARD OF ALDERMEN

The City Services Director shall perform the following duties:

- 1. He/she shall personally superintend and direct all the labor required to be done in the construction, maintenance and repair of any street, alley, sidewalk or thoroughfare of the City.
- 2. He/she shall give his/her personal attention to and direct the labor employed in the construction of any building, bridge, culvert, drain or storm sewer whenever so required by ordinance or resolution of the Board of Aldermen.
- 3. He/she shall see that all streets, alleys, sidewalks, gutters, drains and storm sewers are kept free from obstructions and in a clean condition.
- 4. He/she shall see that all sidewalks in the City are kept in good condition and repair and shall at any time report to the Board of Aldermen for their information and action, what new sidewalks, in his/her judgment, should be constructed.
- 5. He/she shall see that the conditions of all contracts with the City for any kind of street work or street improvements or for the construction or repair of any building, bridge, culvert, drain or

storm sewer or for any other public work or improvement, excepting therefrom all

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improvements under the authority of the Board of Public Works, are faithfully complied with in every particular.

6. He/she shall supervise all excavations and refilling of excavations in any street.
7. He/she shall have the care and use of all tools, machinery, implements and other property of the City used or employed by him/her or those under his/her control in the performance of his/her duties and shall be held responsible for their loss and abuse. Upon vacating his/her office, he/she shall cause the same to be turned over to his/her successor in office or to the City Administrator if his/her successor shall not have been appointed and qualified.
8. He/she shall have general control and shall supervise all activities of the City maintenance garage and all maintenance done therein.
9. He/she shall have general control and shall supervise all activities of the City Wastewater Department.
10. He/she shall have general control and shall supervise all activities of the City water system and plant.
11. He/she shall each month at the regular meeting of the Board of Aldermen report on the general condition of the departments under his/her control. (Ord. No. 625 §2, 4-27-98)

SECTION 115.140:

SALARY

The salary for the City Services Director shall be set at a rate of pay as designated by ordinance from time to time by the Board of Aldermen. (Ord. No. 625 §3, 4-27-98)

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CHAPTER 117: CONFLICTS OF INTEREST

SECTION 117.010: DECLARATION OF POLICY

The proper operation of 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. (CC 1996 §135.100; Ord. No. 637 Art. II §1, 3-8-99)

SECTION 117.020: CONFLICTS OF INTEREST

- A. All elected and appointed officials as well as employees of a political subdivision must comply with Section 105.454, RSMo., on conflicts of interest as well as any other State law governing official conduct.

- B. Any member of the Governing Body of a political subdivision who has a "substantial or private interest" in any measure, bill, order or ordinance proposed or pending before such Governing Body must disclose that interest to the Secretary or Clerk of such body and such disclosure shall be recorded in the appropriate journal of the Governing Body. *"Substantial or private interest"* is defined as ownership by the individual, his/her spouse or his/her dependent children, whether singularly or collectively, directly or indirectly of:
 - 1. Ten percent (10%) or more of any business entity; or
 - 2. An interest having a value of ten thousand dollars (\$10,000.00) or more; or
 - 3. The receipt of a salary, gratuity or other compensation or remuneration of five thousand dollars (\$5,000.00) or more per year from any individual, partnership, organization or association within any calendar year. (CC 1996 §135.105; Ord. No. 637 Art. II §2, 3-8-99)

SECTION 117.030: 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 occurred 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.

- 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 name and address 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 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 Secretary of State; the name, address and general nature of the business conducted of 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 the 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 name and address of each corporation for which such person served in the capacity of a director, officer or receiver. (CC 1996 §135.110; Ord. No. 637 Art II, §3, 3-8-99)

SECTION 117.040:**FILING OF REPORTS**

- A. The financial interest statements shall be filed at the following times, but no person is required to file more than one (1) financial interest statement in any calendar year:
 1. Every 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.
 2. Each person appointed to office shall file the statement within thirty (30) days of such appointment or employment.
- B. Financial disclosure reports giving the financial information required in Section 117.030 shall be filed with the local political subdivision and with the Secretary of State prior to January 1, 2000. After January 1, 2000, reports shall be filed with the local political subdivision and the Missouri Ethics Commission. The reports shall be available for public inspection and copying during normal business hours.

- C. The financial interest statements shall be filed at the following times, but no person is required to file more than one (1) financial interest statement in any calendar year:
1. Every 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.
 2. Each person appointed to office shall file the statement within thirty (30) days of such appointment or employment. (CC 1996 §135.115; Ord. No. 637 Art. II §4, 3-8-99)

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CHAPTER 119: PERSONNEL POLICY

SECTION 119.010: PERSONNEL REGULATIONS

The Personnel Manual for the City of New Franklin is on file in the City offices.

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RECORDS POLICY

CHAPTER 120: OPEN MEETINGS AND

ARTICLE I. IN GENERAL

SECTION 120.010: 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 as detailed in Section 120.100 of this Chapter, 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

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annualized payments commit public tax revenues; or any association that directly accepts

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the appropriation of money from the City, but only to the extent that a meeting, record or vote relates to such appropriation.

PUBLIC MEETING: Any meeting of a public governmental body subject to this Chapter at which any public business is discussed, decided or public policy formulated, whether such meeting is conducted in person or by means of communication equipment including, but not limited to, conference call, video conference, Internet chat or Internet message board. The term "*public meeting*" shall not include an informal gathering of members of a public governmental body for ministerial or social purposes when there is no intent to avoid the purposes of this Chapter, but the term shall include a vote of all or a majority of the members of a public governmental body, by electronic communication or any other means, conducted in lieu of holding a public meeting with the members of the public governmental body gathered at one (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 for the public governmental body by a consultant or other professional service paid for in whole or in part by public funds, including records created or maintained by private contractors under an agreement with a public governmental body or on behalf of a public governmental body. The term "*public record*" shall not include any internal memorandum or letter received or prepared by or on behalf of a member of a public governmental body consisting of advice, opinions and recommendations in connection with the deliberative decision-making process of said body, unless such records are retained by the public governmental body or presented at a public meeting. Any documents or study prepared for a public governmental body by a consultant or other professional service as described in this subdivision shall be retained by the public governmental body in the same manner as any other public record.

PUBLIC VOTE: Any vote, whether conducted in person, by telephone, or by any other electronic means, cast at any public meeting of any public governmental body.

SECTION 120.020: 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,

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the vote shall be announced or become public immediately following the action on the motion

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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 upon 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 shall 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.

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15. Confidential or privileged communications between a public governmental body and its auditor, including all auditor work product; however, all final audit reports issued by the auditor are to be considered open records pursuant to this Chapter.
16. Operational guidelines and policies developed, adopted, or maintained by any public agency responsible for law enforcement, public safety, first response, or public health for use in responding to or preventing any critical incident which is or appears to be terrorist in nature and which has the potential to endanger individual or public safety or health. Nothing in this exception shall be deemed to close information regarding expenditures, purchases, or contracts made by an agency in implementing these guidelines or policies. When seeking to close information pursuant to this exception, the agency shall affirmatively state in writing that disclosure would impair its ability to protect the safety or health of persons, and shall in the same writing state that the public interest in non-disclosure outweighs the public interest in disclosure of the records. This exception shall sunset on December 31, 2012.
17. Existing or proposed security systems and structural plans of real property owned or leased by a public governmental body, and information that is voluntarily submitted by a non-public entity owning or operating an infrastructure to any public governmental body for use by that body to devise plans for protection of that infrastructure, the public disclosure of which would threaten public safety.
 - a. Records related to the procurement of or expenditures relating to security systems purchased with public funds shall be open.
 - b. 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.
 - c. Records that are voluntarily submitted by a non-public entity shall be reviewed by the receiving agency within ninety (90) days of submission to determine if retention of the document is necessary in furtherance of a State security interest. If retention is not necessary, the documents shall be returned to the non-public governmental body or destroyed.
 - d. This exception shall sunset on December 31, 2012.
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.
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 120.030: ELECTRONIC TRANSMISSIONS—PUBLIC RECORD—WHEN

Any member of a public governmental body who transmits any message relating to public business by electronic means shall also concurrently transmit that message to either the member's public office computer or the custodian of records in the same format. The provisions of this Section shall only apply to messages sent to two (2) or more members of that body so that, when counting the sender, a majority of the body's members are copied. Any such message received by the custodian or at the member's office computer shall be a public record subject to the exception of Section 610.021, RSMo.

SECTION 120.040: NOTICES OF MEETINGS

- A. All public governmental bodies shall give notice of the time, date and place of each meeting and its tentative agenda in a manner reasonably calculated to advise the public of the matters to be considered, and if the meeting will be conducted by telephone or other electronic means, the notice of the meeting shall identify the mode by which the meeting will be conducted and the designated location where the public may observe and attend the meeting. If a public body plans to meet by Internet chat, Internet message board or other computer link, it shall post a notice of the meeting on its website in addition to its principal office and shall notify the public how to access that meeting. Reasonable notice shall include making available copies of the notice to any representative of the news media who requests notice of meetings of a particular public governmental body concurrent with the notice being made available to the members of the particular governmental body and posting the notice on a bulletin board or other prominent place which is easily accessible to the public and clearly designated for that purpose at the principal office of the body holding the meeting, or if no such office exists, at the building in which the meeting is to be held.
- B. Notice conforming with all of the requirements of 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. The City shall allow for the recording by audiotape, videotape or other electronic means of any open meeting. The City may establish guidelines regarding the manner in which such recording is conducted so as to minimize disruption to the meeting. No audio recording of any meeting, record or vote closed pursuant to the provisions of Section 120.020 shall be permitted without permission of the City; any person who violates this provision shall be guilty of an ordinance violation.
- D. Each governmental body proposing to hold a closed meeting or vote shall give notice of the time, date and place of such closed meeting or vote and the reason for holding it by reference to a specific exception allowed pursuant to Section 120.020 hereof. The notice shall be the same as described in Subsection (A) herein.

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- E. A formally constituted subunit of a parent governmental body may conduct a meeting without notice during a lawful meeting of the parent governmental body, a recess in that meeting, or immediately following that meeting if the meeting of the subunit is publicly announced at the parent meeting and the subject of the meeting reasonably coincides with the subjects discussed or acted upon by the parent governmental body.

SECTION 120.050:**CLOSED MEETINGS—HOW HELD**

- A. Except as set forth in Subsection (D) of Section 120.040, 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 120.020 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 which does not directly relate to the specific reason announced to justify the closed meeting or vote. Public governmental bodies holding a closed meeting shall close only an existing portion of the meeting facility necessary to house the members of the public governmental body in the closed session, allowing members of the public to remain to attend any subsequent open session held by the public governmental body following the closed session.

SECTION 120.060:**JOURNALS OF MEETINGS AND RECORDS OF****VOTING**

- A. Except as provided in Section 120.020, 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. All votes taken by roll call in meetings of a public governmental body consisting of members who are all elected, shall be cast by members of the public governmental body who are physically present and in attendance at the meeting. When it is necessary to take votes by roll call in a meeting of the public governmental body, due to an emergency of the public body, with a quorum of the members of the public body physically present and in attendance and less than a quorum of the members of the public governmental body participating via telephone, facsimile, Internet, or any other voice or electronic means, the nature of the emergency of the public body justifying that departure from the normal requirements shall be stated in the minutes. Where such emergency exists, the votes taken shall be regarded as if all members were physically present and in attendance at the meeting.
- B. A journal or minutes of open and closed meetings shall be taken and retained by the public governmental body including, but not limited to, a record of any vote taken at such meeting. The minutes shall include the date, time, place, members present, members absent, and a record of votes taken. When a roll call vote is taken, the minutes shall attribute each "yea" and "nay" vote, or abstinence if not voting, to the name of the individual member of the public governmental body.

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SECTION 120.070:**ACCESSIBILITY OF MEETINGS**

- A. Each meeting shall be held at a place reasonably accessible to the public and of sufficient size to accommodate the anticipated attendance by members of the public and at a time reasonably convenient to the public unless for good cause such a place or time is impossible or impractical. Every reasonable effort shall be made to grant special access to the meeting to handicapped or disabled individuals.
- B. When it is necessary to hold a meeting on less than 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 120.080:**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 120.090:**CUSTODIAN DESIGNATED—RESPONSE TO
REQUEST FOR ACCESS
TO RECORDS**

- A. The City Clerk shall be the custodian of records and will be responsible for maintenance and control of all records. The custodian may designate deputy custodians in operating departments of the City and such other departments or offices as the custodian may determine. Deputy custodians shall conduct matters relating to public records and meetings in accord with the policies enumerated herein.
- B. Each public governmental body shall make available for inspection and copying by the public of that body's public records. No person shall remove original public records from the office of a public governmental body or its custodian without written permission of the designated custodian. No public governmental body shall, after August 28, 1998, grant to any person or entity, whether by contract, license or otherwise, the exclusive right to access and disseminate any public record unless the granting of such right is necessary to facilitate coordination with, or uniformity among, industry regulators having similar authority.
- C. Each request for access to a public record shall be acted upon as soon as possible, but in no event later than the end of the third (3rd) business day following the date the request is received by the custodian of records of a public governmental body. If records are requested in a certain format, the public body shall provide the records in the requested format, if such format is available. If access to the public record is not granted immediately, the custodian shall give a detailed explanation of the cause for further delay and the place and earliest time and date that the record will be

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available for inspection. This period for document production may exceed three (3) days for reasonable cause.

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

SECTION 120.100: FEES FOR COPYING PUBLIC RECORDS—LIMITATIONS

- A. Except as otherwise provided by law, each public governmental body shall provide access to and, upon request, furnish copies of public records subject to the following:

1. Fees for copying public records, except those records restricted under Section 32.091, RSMo., shall not exceed ten cents (\$.10) per page for a paper copy not larger than nine (9) by fourteen (14) inches, with the hourly fee for duplicating time not to exceed the average hourly rate of pay for clerical staff of the public governmental body. Research time required for fulfilling records requests may be charged at the actual cost of research time. Based on the scope of the request, the public governmental body shall produce the copies using employees of the body that result in the lowest amount of charges for search, research, and duplication time. Prior to producing copies of the requested records, the person requesting the records may request the public governmental body to provide an estimate of the cost to the person requesting the records. Documents may be furnished without charge or at a reduced charge when the public governmental body determines that waiver or reduction of the fee is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the public governmental body and is not primarily in the commercial interest of the requester.
2. Fees for providing access to public records maintained on computer facilities, recording tapes or disks, videotapes or films, pictures, maps, slides, graphics, illustrations or similar audio or visual items or devices, and for paper copies larger than nine (9) by fourteen (14) inches shall include only the cost of copies, staff time, which shall not exceed the average hourly rate of pay for staff of the public governmental body required for making copies and programming, if necessary, and the cost of the disk, tape or other medium used for the duplication. Fees for maps, blueprints or plats that require special expertise to duplicate may include the actual rate of compensation for the trained personnel required to duplicate such maps, blueprints or plats. If programming is required beyond the customary and usual level to comply with a request for records or information, the fees for compliance may include the actual cost of such programming.

- B. Payment of such copying fees may be requested prior to the making of copies.

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

SECTION 120.110:

DEFINITIONS

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

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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 120.120:

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 and except as provided in Section 120.140.
- 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, a family member of such person within the first degree of consanguinity of such person

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if deceased or incompetent, 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 120.140 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. Any person may apply pursuant to this Subsection to the Circuit Court having jurisdiction for an order requiring a Law Enforcement Agency to open incident reports and arrest reports being unlawfully closed pursuant to the Section. If the court finds by a preponderance of the evidence that the Law Enforcement Officer or Agency has knowingly violated this Section, the officer or agency shall be subject to a civil penalty in an amount up to one thousand dollars (\$1,000.00). If the court finds that there is a knowing violation of this Section, the court may order payment by such officer or agency of all costs and attorneys' fees, as provided by Section 610.027, RSMo. If the court finds by a preponderance of the evidence that the Law Enforcement Officer or Agency has purposely violated this Section, the officer or agency shall be subject to a civil penalty in an amount up to five thousand dollars (\$5,000.00) and the court shall order payment by such officer or agency of all costs and attorney fees, as provided in Section 610.027, RSMo. The court shall determine the amount of the penalty by taking into account the size of the jurisdiction, the seriousness of the offense, and whether the Law Enforcement Officer or Agency has violated this Section previously.
- E. 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 120.130: EFFECT OF NOLLE PROS, DISMISSAL AND
SUSPENDED
IMPOSITION OF SENTENCE ON RECORDS**

- A. 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 Subsection (B) of this Section and Section 120.140 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 120.140.
- B. If the person arrested is charged with an offense found in Chapter 566, RSMo., Section 568.045, 568.050, 568.060, 568.065, 568.080, 568.090 or 568.175, RSMo., and an imposition of sentence

is suspended in the court in which the action is prosecuted, the official records pertaining to the case shall be made available to the victim for the purpose of using the records in his/her own judicial proceeding or if the victim is a minor to the victim's parents or guardian, upon request.

SECTION 120.140:**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 120.150:**"911" TELEPHONE REPORTS**

Except as provided by this Section, any information acquired by the Police Department by way of a complaint or report of a crime made by telephone contact using the emergency number "911" shall be inaccessible to the general public. However, information consisting of the date, time, specific location, and immediate facts and circumstances surrounding the initial report of the crime or incident shall be considered to be an incident report and subject to Section 120.120. 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 120.160: DAILY LOG OR RECORD MAINTAINED BY POLICE DEPARTMENT OF CRIMES, ACCIDENTS OR COMPLAINTS—PUBLIC ACCESS TO CERTAIN INFORMATION

The City of New Franklin 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.

CHAPTER 125: MUNICIPAL COURT

**SECTION 125.010: VIOLATIONS—TO BE HEARD BY ASSOCIATE
CIRCUIT JUDGE**

The City of New Franklin, hereby elects to have all violations of its municipal ordinances heard and determined by an Associate Circuit Judge of the Circuit Court of Howard County, Missouri, the County in which the City of New Franklin is located.

SECTION 125.020: MUNICIPAL DIVISION—CIRCUIT COURT

The Division of the Circuit Court of Howard County, Missouri, which hears and determines violations of the ordinances of the City of New Franklin shall be known as the "Municipal Division of the Circuit Court of Howard County, Missouri".

**SECTION 125.025: RULES GOVERNING PROCEDURE AND PRACTICE
IN THE
MUNICIPAL COURT**

The rules governing the procedure and practice in the Municipal Court shall be those established and promulgated by the Supreme Court of Missouri on July 1, 1959, and such subsequent rules as the Supreme Court shall from time to time establish and promulgate; and any provision in these ordinances which shall be in conflict with such rules is hereby repealed.

SECTION 125.030: VIOLATIONS BUREAU—DUTIES—COURT COSTS

The Associate Circuit Judge may establish a Violations Bureau in the City of New Franklin, and shall establish such a Bureau when a request therefor is made by the Board of Aldermen of the City of New Franklin. The Violations Bureau shall operate under the supervision of the Circuit Court, and the Associate Circuit Judge hearing and determining violations of the ordinances of the City of New Franklin, and shall be operated in accordance with the rules of the Supreme Court and the rules of the Circuit Court. All expenses incident to the operation of the Violations Bureau, including salaries of clerical personnel, shall be paid by the City of New Franklin. The City shall provide suitable quarters for the Violations Bureau. The Violations Bureau shall accept pleas of guilty to certain violations of traffic ordinances designated by the Associate Circuit Judge and shall accept payments of fines established by the Associate Circuit Judge and court costs assessed on said pleas of guilty.

SECTION 125.040: COURT CLERK

The City Collector is hereby appointed Court Clerk. (CC 1996 §220.070)

SECTION 125.045: COURT CLERK—POWERS

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The Clerk of the Municipal Court and any Deputy Clerk that may serve under him/her, shall be and are hereby authorized to:

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1. Take oaths and affirmations.
2. Accept signed complaints signed and sworn to or affirmed before him/her.
3. Sign and issue subpoenas requiring the attendance of witnesses and sign and issue subpoenas duces tecum.
4. Accept the appearance, waiver of trial and plea of guilty and payment of fine and costs in Violations Bureau cases or as directed by the Municipal Judge; generally, act as Violations Clerk of the Violations Bureau.
5. Perform such 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. (CC 1996 §220.165)

SECTION 125.050:**COURTROOM TO BE PROVIDED**

The Board of Aldermen shall provide at the expense of the City a suitable room for the Municipal Judge to hold Court, and such Court shall be open every day except Sunday for immediate trial, unless continued for good cause, of offenses against the ordinances of the City, upon such schedule as designated by the Municipal Judge. (CC 1996 §220.040)

SECTION 125.060:**COURT COSTS**

In addition to any fine that may be imposed by the Municipal Judge in any case filed in the New Franklin Municipal Division of the 14th 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 fifteen dollars (\$15.00).
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 Subparagraph (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 Subparagraph 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. There may also be assessed a two dollar (\$2.00) cost per case for each criminal case, including violations of any County or municipal ordinance for the purpose of providing operating expenses for shelters for battered persons as set out in Section 488.607, RSMo.
 5. There shall be assessed a seven dollar (\$7.00) surcharge for the Statewide Court Automation Fund.
 6. 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.
 7. Actual costs assessed against the City by the County Sheriff for apprehension or confinement in the County Jail or costs assessed against the City by any other detention facility.
 8. 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.
 9. 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 Section 125.060(10) hereof.
 10. *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 New Franklin 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 may 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.
 11. *Judicial Education Fund.* Cities by ordinance may provide for fees in an amount per case to be set pursuant to Sections 488.010 to 488.020, RSMo., for each municipal ordinance violation

case filed before a Municipal Judge, and in the event a defendant pleads guilty or is found guilty, the Judge may assess costs against the defendant except in those cases where the defendant is found by the Judge to be indigent and unable to pay the costs. The fees authorized in this Subsection are in addition to service charges, witness fees and jail costs that may otherwise be authorized to be assessed, but are in lieu of other court costs. The fees provided by this Subsection shall be collected by the Municipal Division Clerk in municipalities electing or required to have violations of municipal ordinances tried before a Municipal Judge pursuant to Section 479.020, RSMo., or to employ judicial personnel pursuant to Section 479.060, RSMo., and disbursed as provided in Subsection (1) of Section 479.080, RSMo. Any other court costs required in connection with such cases shall be collected and disbursed as provided in Sections 488.010 to 488.020, RSMo.; provided that, each Municipal Court may establish a Judicial Education Fund and an Appointed Counsel Fund, each in separate accounts under the control of the Municipal Court to retain one dollar (\$1.00) of the fees collected on each case. The fees collected shall be allocated between the two (2) funds as determined by the court. The Judicial Education Fund shall be used only to pay for:

- a. The continuing education and certification required of the Municipal Judges by law or Supreme Court Rule; and
- b. Judicial education and training for the Court Administrator and Clerks of the Municipal Court.

The Appointed Counsel Fund shall be used only to pay the reasonable fees approved by the court for the appointment of an attorney to represent any defendant found by the Judge to be indigent and unable to pay for legal representation, and where the Supreme Court rules or the law prescribes such appointment. Provided further, that no Municipal Court shall retain more than one thousand five hundred dollars (\$1,500.00) in the Judicial Education Fund for each Judge, Administrator or Clerk of the Municipal Court and no more than five thousand dollars (\$5,000.00) in the Appointed Counsel Fund. Any excess funds shall be transmitted quarterly to the General Revenue Fund of the County or Municipal Treasury.

SECTION 125.070: DRIVING WHILE INTOXICATED—IMPOSITION OF COSTS

- A. *Imposition Of Costs.* In accordance with the authority granted under Section 577.048, RSMo., the City does hereby impose upon any person convicted of any traffic offense involving alcohol or drugs related in some fashion to the offense additional charges to reimburse the City of New Franklin for the costs associated with making the arrests.
- B. *Costs Itemized.* The costs of such an arrest shall be as follows:
 1. A fee of eighty dollars (\$80.00) to reimburse for the estimated expenses of making the arrest, processing, charging and booking the individual.
 2. If any chemical test is made under the authority of Chapter 577, RSMo., to determine the alcohol or drug content of a person's blood, a fee of an amount equal to the costs charged by the institution or physician making the blood test; and

3. The actual costs imposed upon the City for holding such arrested person in custody. (CC 1996 §210.170)

SECTION 125.080: COURT COSTS—ASSESS AGAINST PROSECUTING WITNESS

The costs of any action may be assessed against the prosecuting witness and judgment be rendered against him/her that he/she pay the same and stand committed until paid in any case where it appears to the satisfaction of the Municipal Judge that the prosecution was commenced without probable cause and from malicious motives. (CC 1996 §220.185)

SECTION 125.085: FINES AND COSTS—WHERE PAID

In cases of violations of ordinances of the City submitted to, heard and determined before an Associate Circuit Judge, all fines shall be paid to and deposited at least monthly into the City Treasury and all court costs shall be accounted for and remitted to the State Treasury in the same manner as provided by law for costs in misdemeanor cases.

SECTION 125.090: PROCEDURE—FINES AND COSTS—REPORT

The Supreme Court by administrative rule may provide for uniform procedure and reporting forms for the collection and transmittal of fines and costs. Until modified or otherwise provided by such administrative rule, the Associate Circuit Judge hearing and determining violations of City ordinances, shall cause the Clerk of the Municipal Division, within the first ten (10) days of every month, to make out a list of all the 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 application for trial de novo, respectively. Such Clerk or the Judge shall verify such lists and statements by affidavit, and file the same forthwith with the Clerk of the City, who shall present the same before the Board of Aldermen at its first session thereafter. The Official collecting fines, shall, within the ten (10) days aforesaid, pay to the City Treasurer the full amount of all fines collected by him/her during the preceding month if not previously paid to the City Treasurer.

SECTION 125.100: PROSECUTIONS—ON INFORMATION

All prosecutions for the violation of City ordinances shall be instituted by information and may be based upon a complaint. Proceedings shall be in accordance with the Supreme Court Rule governing practices and procedures in proceedings before Municipal Judges.

SECTION 125.110: WARRANTS—HOW ISSUED AND EXECUTED

All warrants issued by an Associate Circuit Judge hearing violations of City ordinances, shall be directed to the Chief of Police, or any other Police Officer of the City, or to the Sheriff of Howard County. The warrants shall be executed by the Chief of Police, Police Officer or sheriff at any place

within the limits of Howard 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.

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SECTION 125.115:**WITNESSES**

- A. 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 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 whether 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.
- B. *Policeman Or Other Officer As Witness.* If prosecutions before the Municipal Judge for misdemeanors arising under ordinances of the City, any Policeman or other executive officer shall be a competent witness in the case; but no such Policeman or executive officer shall be entitled to any witness fee in such case.
- C. *Arresting Officers To Attend As Witnesses Without Summons.* Officers shall attend upon notice as witnesses against persons whom they have caused to be arrested, without being summoned to do so; and, upon their failure to appear at the time of the trial, may be attached and punished for contempt as witnesses summoned.

SECTION 125.120:**ARREST WITHOUT WARRANTS—PROCEDURE**

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

SECTION 125.130:**ATTORNEY TO PROSECUTE VIOLATIONS**

The City Attorney is hereby designated by the City to prosecute the violations of the ordinances of the City before the Associate Circuit Judge hearing the violations of the ordinances of the City. The salary or fees of the attorney and his/her necessary expenses incurred in such prosecutions shall be paid by the City.

SECTION 125.135:**SERVICE ON CITY AND AFFIDAVIT BY CITY**

- A. *Service On City.* Notices and process arising in the Municipal Court which are necessary to be served on the City shall be served on the City Prosecutor.
- B. *Affidavit By City.* Whenever any affidavit shall become necessary to be made on the part of the City, the City Prosecutor shall cause the same to be made by some person to whom the facts are known.

SECTION 125.140:**TRIAL BY JURY—WHEN**

- A. Any person charged with the violation of an ordinance of the City shall be entitled to a trial by jury,
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as in prosecutions for misdemeanors before an Associate Circuit Judge.

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- B. Whenever a defendant accused of a violation of a municipal ordinance has the right to a trial by jury and demands such trial by jury, the Municipal Judge shall certify the case to the Presiding Judge of the Circuit Court serving the City for assignment in the manner provided by State law. Proceedings in the case shall be had as if the case was originally commenced under the practice and procedure applicable before Circuit Judges with there being no right of trial de novo; but the sufficiency of plaintiff's petition shall be adjudged according to the procedures under Chapter 517, RSMo.

SECTION 125.150:**JUDGE TO BE TRIER OF FACT**

In any trial for the violation of an ordinance of the City, all issues of fact shall be tried by the Judge except where trial by jury is authorized by law and the defendant or his/her attorney requests a trial by jury.

SECTION 125.160:

**PAROLE OR PROBATION, WHEN
GRANTED—CERTIFICATE—
CONDITIONS OF PROBATION—MODIFICATION OF CONDITIONS**

- 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 employee of a County, City, person, 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 125.170:**APPEALS—TRIAL DE NOVO**

In any case tried before an Associate Circuit Judge, except where there has been a plea of guilty or

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the case has been tried with a jury, the defendant shall have a right of trial de novo before a Circuit Judge or upon assignment before an Associate Circuit 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. In any case tried with a jury before an Associate Circuit Judge a record shall be made and appeals may be had upon that record to the appropriate Appellate Court. The record shall be kept in a manner provided by State law or Supreme Court Rule.

SECTION 125.180: RECOGNIZANCE AND FORFEITURES

In case of a breach of any recognizance entered into before an Associate Circuit Judge hearing violations of the ordinances of the City, 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 City of New Franklin as plaintiff. Such action shall be prosecuted before a Circuit Judge or Associate Circuit Judge. All monies recovered in such action shall be paid over to the City Treasury to the General Revenue Fund of the City.

SECTION 125.190: FINE—INSTALLMENTS ALLOWED—COMMUTED TO IMPRISONMENT

- A. When a fine is assessed for violation of an ordinance, it shall be within the discretion of the Associate Circuit Judge to provide for the payment of the fine on an installment basis under such terms and conditions as he/she may deem appropriate.
- B. When any person shall refuse or be unable to pay any fine and costs assessed against him, the Associate Circuit Judge shall have power to commute such fine and costs to imprisonment in the City Jail, which shall be credited up to a rate of ten dollars (\$10.00) of such fine and costs for each day's imprisonment, the specific rate to be within the discretion of the Associate Circuit Judge.

SECTION 125.200: CITY ORDINANCES—EVIDENCE—JUDICIAL NOTICE OF

In the trial of violations of the ordinances of the City, a copy of a City ordinance which is certified by the Clerk of the City shall constitute prima facie evidence of such ordinance. If such certified copy is on file with the Clerk of the Municipal Division and readily available for inspection by the parties, the Judge may take judicial notice of such ordinance without further proof.

SECTION 125.210: CONTEMPT OF COURT

- A. Any person appearing before the Municipal Court of the City of New Franklin, Missouri, which is a division of the Circuit Court of Howard County, Missouri, shall be subject to punishment for contempt of Court for any of the following acts constituting contempt:
 - 1. Disorderly or insolent behavior committed during its session in its immediate view and presence and directly tending to interrupt its proceedings or to impair the respect due its authority;

2. Any breach of peace, noise or other disturbance directly tending to interrupt its proceedings;

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3. Willful disobedience or resistance of any process or order lawfully issued or made by it; and
 4. Failure to appear or failure to satisfy Court judgment.
- B. Contempt committed in the immediate view and presence of the Court may be punished summarily; in other cases, the party charged shall be notified of the accusation and have a reasonable time to make his/her defense. (CC 1996 §220.200)

SECTION 125.220: PRISONERS LIABLE FOR COST OF IMPRISONMENT

Every person convicted of any offense or misdemeanor and committed to the County Jail shall be liable to the City of New Franklin for all housing and support expenses incurred by the City from said confinement. This sum shall be paid in full before he/she shall be discharged and the property of such person shall be subjected to the payment of such expenses in accordance with Section 221.070, RSMo. (Ord. No. 609A §1, 11-25-96)

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CHAPTER 130: PROCUREMENT AND

CONFLICT OF INTEREST

SECTION 130.010: PURCHASING AGENT DESIGNATED

- A. The City Administrator is hereby designated as purchasing agent for the City. The City Administrator, when authorized, shall procure for the City, bids for supplies and services needed by the City in accordance with the procedures prescribed by this Chapter or required by law.
- B. Except as provided in this Chapter, it shall be unlawful for any City Officer or employee to order the purchase of any supplies or make any contract within the purview of this Chapter other than through the City Administrator and any purchase ordered or contract made contrary to the provisions hereof shall not be approved by City Officials, and the City shall not be bound thereby. (CC 1996 §135.010; Ord. No. 637 Art. I §1, 3-8-99)

SECTION 130.020: PURCHASING AGENT—DUTIES GENERALLY

In addition to the purchasing authority conferred in the preceding Section and in addition to any other powers and duties conferred by the Code or other ordinance, the City Administrator shall:

- 1. Act to procure for the City the highest quality in supplies and contractual services at the least expense to the City.
- 2. Discourage uniform bidding and endeavor to obtain as full and open competition as possible on all purchases and sales.
- 3. Keep informed of current developments in the field of purchasing, prices, market conditions and new products and secure for the City the benefits of research done in the field of purchasing by other governmental jurisdictions, national technical societies, trade associations and by private businesses and organizations.
- 4. Prepare, adopt and maintain a vendors' catalogue file. Said catalogue shall be filed according to materials and shall contain descriptions of vendors' commodities, prices and discounts.
- 5. Exploit the possibilities of buying "in bulk" so as to take full advantage of discounts.
- 6. Act so as to procure for the City all Federal and State tax exemptions to which it is entitled.
- 7. Have the authority to declare vendors who default on their quotations irresponsible bidders and to disqualify them from receiving any business from the municipality for a stated period of time. (CC 1996 §135.015; Ord. No. 637 Art. I §2, 3-8-99)

SECTION 130.030: REQUISITIONS AND ESTIMATES

Each City department or agency shall file with the City Administrator detailed requisitions or estimates of their requirements in supplies and contractual services in such manner, at such times and for such future periods as the City Administrator shall prescribe.

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1. A City department or agency shall not be prevented from filing, in the same manner, with the City Administrator at any time a requisition or estimate for any supplies and contractual services, the need for which was not foreseen when detailed estimates were filed.
2. The City Administrator shall examine each requisition or estimate and shall have the authority to revise it as to quantity, quality or estimated cost. (CC 1996 §135.020; Ord. No. 637 Art. I §3, 3-8-99)

SECTION 130.040: CONFLICT OF INTEREST

No officer or employee of the City, or any firm or business entity of which he/she is an officer, agent or member, or the owner of a substantial interest shall perform any services for the City for the receipt of compensation in excess of five hundred dollars (\$500.00) per year, other than the compensation provided for the performance of his/her official duties, except on a transaction made pursuant to an award on a contract let or a sale made after public notice and competitive bidding, provided that the bid or offer is the lowest received, nor shall he/she or any firm or business entity of which he/she is an officer, agent or member, or the owner of a substantial interest sell, rent or lease any property to the City for consideration in excess of five hundred dollars (\$500.00) per year unless the transaction is made pursuant to an award on a contract let or a sale made after public notice and in case of property other than real property, competitive bidding, provided that the bid or offer accepted is the lowest received; nor shall he/she make any personal investments in any enterprise which will create a substantial conflict between his/her private interest and the public interest. (CC 1996 §135.025; Ord. No. 637 Art. I §4, 3-8-99)

SECTION 130.050: CONFLICT OF INTEREST—OFFICERS AND EMPLOYEES NOT TO DEAL WITH CERTAIN ENTITIES

No officer or employee of this City shall enter into any private business transaction with any person or entity that has a matter pending or to be pending upon which the officer or employee is or will be called upon to render a decision or pass judgment. If any officer or employee is already engaged in the business transaction at the time that a matter arises, he/she shall be disqualified from rendering any decision or passing any judgment upon the same. (CC 1996 §135.030; Ord. No. 637 Art. I §5, 3-8-99)

SECTION 130.060: CONFLICT OF INTEREST—PENALTIES

Any person who violates the provisions of Section 130.040 or Section 130.050 shall, upon conviction thereof, be punished as provided in Section 100.050 of this Code. (CC 1996 §135.035; Ord. No. 637 Art. I §6, 3-8-99)

SECTION 130.070: GIFTS AND REBATES

The City Administrator and every other officer and employee of the City are expressly prohibited from accepting, directly or indirectly, from any person, company, firm or corporation to which any purchase order or contract is or might be awarded any rebate, gift, money or anything of value

whatsoever, except where given for the use and benefit of the City. Violation of the provisions of this Section shall upon conviction thereof be punished as provided in Section 100.050 of the Code. (CC 1996 §135.040; Ord. No. 637 Art. I §7, 3-8-99)

SECTION 130.080:**COMPETITIVE BIDDING REQUIRED**

All purchases of and contracts for supplies and contractual services, and all sales of personal property which has become obsolete and unusable shall, except as specifically provided herein, be based wherever possible on competitive bids. (CC 1996 §135.045; Ord. No. 637 Art. I §8, 3-8-99)

SECTION 130.090:**FORMAL CONTRACT PROCEDURE**

All supplies and contractual services, except as otherwise provided in this Chapter, when the estimated cost thereof shall exceed five thousand dollars (\$5,000.00), shall be purchased by formal written contract from the lowest responsible bidder after due notice inviting proposals. All sales of personal property which has become obsolete and unusable, when the estimated value shall exceed five thousand dollars (\$5,000.00), shall be sold by formal written contract to the highest responsible bidder after due notice inviting proposals. (CC 1996 §135.050; Ord. No. 637 Art. I §9, 3-8-99)

SECTION 130.100:**NOTICE DEFINED**

The notice required by the preceding Section shall consist of the following:

1. Notice inviting bids shall be published once in at least one (1) official newspaper of the City and at least five (5) days preceding the last day set for the receipt of proposals. The newspaper notice required herein shall include a general description of the articles to be purchased or sold, shall state where bid blanks and specifications may be secured and the time and place for opening bids.
2. The City Administrator shall also solicit sealed bids from all responsible prospective suppliers who have requested their names to be added to a "bidder's list", by sending them a copy of such newspaper notice or such other notice as will acquaint them with the proposed purchase or sale. In any case, invitations sent to the vendors on the bidder's list shall be limited to commodities that are similar in character and ordinarily handled by the trade group to which the invitations are sent.
3. The City Administrator shall also advertise all sales by a notice on the public bulletin board in the City Hall.
4. The City Administrator shall also solicit sealed bids by:
 - a. Direct mail request to prospective vendors, and
 - b. By telephone.

As may seem to him/her to be in the best interest of the City. (CC 1996 §135.055; Ord. No. 637 Art. I §10, 3-8-99)

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SECTION 130.110:**BID OPENING PROCEDURE**

Bids shall be submitted sealed to the City Administrator and shall be identified as bids on the envelope. They shall be opened in public at the time and place stated in the public notices. A tabulation of all bids received shall be posted for public inspection. (CC 1996 §135.060; Ord. No. 637 Art. I §11, 3-8-99)

SECTION 130.120:**LOWEST RESPONSIBLE BIDDER**

Contracts shall be awarded to the lowest responsible bidder. Bids shall not be accepted from, nor contracts awarded to, a contractor who is in default on the payment of taxes, licenses, or other monies due the City. In determining "lowest responsible bidder", in addition to price, the following shall be considered:

1. The ability, capacity and skill of the bidder to perform the contract or provide the service required;
2. Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;
3. The character, integrity, reputation, judgment, experience and efficiency of the bidder;
4. The quality of performance of previous contracts or services;
5. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service;
6. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
7. The quality, availability and adaptability of the supplies or contractual services to the particular use required;
8. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;
9. The number and scope of conditions attached to the bid. (CC 1996 §135.065; Ord. No. 637 Art. I §12, 3-8-99)

SECTION 130.130:**BIDS ACCEPTED**

All bids shall be accepted or rejected by the Board of Aldermen. When the award is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be entered upon the journal of the Board. (CC 1996 §135.070; Ord. No. 637 Art. I §13, 3-8-99)

SECTION 130.140: TIE BIDS

If all bids received or the lowest bids received are for the same total amount or unit price, quality and service being equal, the contract shall be awarded to a local bidder.

1. Where there is no local low bidder, the award shall be made on the basis of a drawing of lots to be held in public. (CC 1996 §135.075; Ord. No. 637 Art. I §14, 3-8-99)

SECTION 130.150: OPEN MARKET PROCEDURE

All purchases of supplies and contractual services, and all sales of personal property which has become obsolete and unusable for which competitive bidding is not required by Section 130.090 of this Chapter shall be made in the open market without newspaper advertisement and without observing the procedure prescribed by Section 130.110 for the award of formal contracts.

1. All open market purchases shall, whenever possible, be based on at least three (3) competitive bids and shall be awarded to the lowest responsible bidder in accordance with the standards set forth in Section 130.120.
2. The City shall solicit bids by:
 - a. Direct mail request to prospective vendors,
 - b. By telephone, and
 - c. By public notice posted on the bulletin board of the City Hall.
3. The City Administrator shall keep a record of all open market orders and the bids submitted in competition thereon and such records shall be open to public inspection. (CC 1996 §135.080; Ord. No. 637 Art. I §15, 3-8-99)

SECTION 130.160: EMERGENCY PURCHASES

In case of an apparent emergency which requires immediate purchase of supplies or contractual services, the Board of Aldermen may authorize the purchase at the lowest obtainable price any supplies or contractual services regardless of the amount of the expenditure. A full explanation of the circumstances of any emergency purchase shall be recorded in the journal of the Board of Aldermen. (CC 1996 §135.085; Ord. No. 637 Art. I §16, 3-8-99)

SECTION 130.170: COOPERATIVE PROCUREMENT

To the maximum extent practicable, the purchases of this City shall be made under the provisions of the Missouri State Local Technical Services Act. The provisions of this Chapter requiring competitive bidding at the local level shall not apply to such purchases. (CC 1996 §135.090; Ord. No. 637 Art. I §17, 3-8-99)

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COMMITTEES

CHAPTER 135: BOARDS, COMMISSIONS AND

ARTICLE I. CITY PARK COMMITTEE

SECTION 135.010: CITY PARK COMMITTEE

- A. The Mayor, with the consent and approval of the Board of Aldermen, shall appoint a City Park Committee, consisting of a minimum of four (4) members, who shall act, until the next regular City election, and at the first (1st) meeting of the Board of Aldermen after the next regular City election, the Mayor may, in like manner appoint a City Park Committee, consisting of a like number for a period of two (2) years.
- B. The Mayor, by and with the consent of the Board of Aldermen may remove any member of the City Park Committee for misconduct or neglect of duty.
- C. Vacancies in the City Park Committee, occasioned by removals, resignations or otherwise, shall be reported to the Mayor and be filled in like manner as original appointments, except that if the vacancy is an unexpired term, the appointment shall be made for only the unexpired portion of such term.
- D. No member of the City Park Committee shall receive any compensation as such.
- E. The City Park Committee shall be organized as follows:
 - 1. The members of the City Park Committee shall immediately after their appointment meet and organize by the election of one of their members as Chairman and by the election of such other officers as the Committee shall determine.
 - 2. In May of each year the City Park Committee shall submit to the Board of Aldermen a proposed budget for the operation of the City Park, the Swim Park and the Caboose. This budget shall contain a detailed estimate of income and expenditures anticipated by the Committee and shall be prepared in accordance with generally accepted accounting principles and shall be in the same form as the City of New Franklin's total budget documentation. The Board of Aldermen upon receipt of the budget shall examine the same and make such changes, additions and deletions as shall seem necessary. When the budget is approved by the Board of Aldermen, the City Park Committee may authorize the expenditure of all designated City Park, Swim Park and Caboose funds against the budget.
 - 3. The City Park Committee shall be authorized to solicit donations and to accept them for all Park funds.
 - 4. All monies received for the Swim Park designated as pool money shall be deposited in the City's operating fund and recorded as pool funds in the City's financial records. Each check drawn on the pool fund shall be signed by two (2) of the three (3) designated signatures of the City.
 - 5. All monies received for the Caboose designated as caboose money shall be deposited in the

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City's financial records. Each check drawn on the caboose fund shall be signed by two (2) of the three (3) designated signatures of the City.

6. The City Park Committee may at its discretion decide to set and collect a user fee for the use of the pool.
7. The City Park Committee may apply to the Federal or State Government for grants-in-aid or for loans.
8. The City Park Committee may recommend to the Board of Aldermen such ordinances, regulations or procedures as may, in its opinion, be in the interest of the City.
9. The City Park Committee shall superintend the maintenance and care of the City pool.
10. The City Park Committee shall make and adopt by-laws, rules and regulations for their own guidance, and for the government of the pool, as may be expedient, and not inconsistent with the state law. In matters of procedure the City Park Committee shall follow Robert's Rules of Order according to the most recent revision.
11. *Pool manager.* The City Park Committee shall appoint a properly qualified manager who shall be the chief executive and administrative officer for the pool during periods of operation of the pool.
12. *Powers and duties—generally.* The City Park Committee shall have such powers and duties as are authorized by state law and given them by resolution or ordinance of the Board of Aldermen. (CC 1996 §125.030; Ord. No. 738 §II, 10-12-09)

ARTICLE II. BOARD OF HEALTH

SECTION 135.020:

BOARD OF HEALTH

- A. The Mayor, with the consent of a majority of the members elected to the Board of Aldermen, shall at the first (1st) regular meeting of the Board of Aldermen in April each year or as soon as practicable thereafter appoint a City Board of Health which shall consist of two (2) members of the Board of Aldermen and two (2) interested citizens and who shall hold their office for the period of one (1) year and until their successors are duly appointed and qualified. The City Chief of Police shall also be a member of said Board.
- B. The Board of Health shall exercise a general supervision over the health of the City. It shall be their duty to recommend to the Board of Aldermen the adoption of such ordinances as they may deem necessary to improve and advance the sanitary conditions of the City; to recommend to the Mayor and Board of Aldermen the adoption of any rules they deem wise or expedient for the protection and preservation of the health of the citizens of said City; they shall have authority to enter into or upon any premises within this City where there is reason to suspect the existence of any nuisance which affects or is likely to affect the health of citizens and to order such nuisance abated. They shall provide suitable medical attention and care for and establish a sufficient quarantine of every person within the jurisdiction of the City who has been exposed to or is infected with any contagious and dangerous disease and against every such person without the jurisdiction of the City and when they

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deem any general quarantine of the City necessary to prevent the introduction or spread of any contagious disease, they shall immediately report such fact to the Board of Aldermen with their recommendations regarding the same.

- C. When any nuisance punishable under a City ordinance is not abated within the time allowed by ordinance or by order of the Board of Health after service of written notice from said Board for the abatement of same, the Chief of Police shall immediately file complaint before the Municipal Judge against the party or parties creating or maintaining such nuisance to be dealt with for violation of such ordinance.
- D. All persons are required to obey the orders, precepts and requirements of the Board of Health and the officers of the City when called upon by the Mayor shall assist in the execution of the orders of said Board. (CC 1996 §215.010)

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CHAPTER 140: TAXATION AND FINANCE

Cross Reference—As to sales taxes, ch. 145.

ARTICLE I. FISCAL YEAR

SECTION 140.010: FISCAL YEAR ESTABLISHED

The fiscal year for the City of New Franklin shall begin July first (1st) of each year.

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

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A. The budget shall be prepared under the direction of a Budget Officer. Except as otherwise provided

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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.

returned by the Assessor and Board of Equalization, the amount of taxes, whether general or special,

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due thereon and shall charge the City Collector with the full amount of taxes levied and to be collected.

SECTION 140.110:

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.

CHAPTER 145: SALES TAXES

SECTION 145.010: ONE PERCENT SALES TAX

Pursuant to the authority granted by and subject to the provisions of Section 94.500 to 94.570, RSMo., a tax for general revenue purposes is hereby imposed upon all sellers 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. The rate of the tax shall be one percent (1%) on the receipts from the sale at retail of all tangible personal property or taxable services at retail within New Franklin, Missouri, if such property and taxable services are subject to taxation by the State of Missouri under the provisions of Section 144.010 to 144.510, RSMo. The tax shall become effective as provided in Subsection (4) of Section 94.510 RSMo., and shall be collected pursuant to the provisions of Sections 94.500 to 94.570, RSMo. (Ord. No. 373 §1, 1975)

SECTION 145.020: SALES TAX FOR TRANSPORTATION

There is hereby imposed a one-half of one percent (0.5%) City sales tax for transportation purposes on the receipts from the sale at retail of all tangible personal property or taxable services at retail within the corporate limits of the City of New Franklin, Missouri, if such property and services are subject to taxation by the State of Missouri under the provisions of Sections 144.101 to 144.510, RSMo., and the amendments and revisions thereto. (CC 1996 §365.010; Ord. No. 509, 10-10-86)

SECTION 145.025: SALES TAX FOR CAPITAL IMPROVEMENTS

There is hereby imposed a one-half of one percent (0.5%) City sales tax for the purpose of funding capital improvements on the receipts from the sale at retail of all tangible personal property or taxable services at retail within the corporate limits of the City of New Franklin, Missouri, if such property and services are subject to taxation by the State of Missouri under the provisions of Sections 144.101 to 144.510, RSMo., and the amendments and revisions thereto. (CC 1996 §365.020; Ord. No. 550, 8-10-92; Ord. No. 561, 2-26-93)

SECTION 145.030: CALCULATION, REPORTING AND REGULATIONS

- A. Every retailer within the corporate limits of the City of New Franklin shall add the tax imposed by sales tax law of the State of Missouri, the sales taxes imposed by this Chapter to his/her sales price, and when added the combined tax shall constitute a part of the price and shall be a debt of the purchaser to retailer until paid and shall be recoverable at law in the same manner as the purchase price. The combined rate of the State sales tax and the City sales tax shall be the sum of four (4) rates, multiplying the combined tax rate times the amount of the sale.
- B. In order to permit sellers required to collect and report the sales tax to collect and report the sales tax to collect the amount required to be reported and remitted, but not to change the requirements of reporting or remitting tax or to serve as a levy of the tax, and in order to avoid fractions of pennies, the applicable provisions of Section 144.285, RSMo., shall apply to all taxable transactions.

- C. The taxes imposed under this Chapter and the State sales tax shall be collected together and reported upon such forms and under such administrative rules and regulations as may be prescribed by the Director of Revenue. (CC 1996 §365.030)

SECTION 145.040:**RETAIL BUSINESS TAX**

- A. There is hereby imposed on all sellers a tax for the privilege of engaging in the business of selling tangible property or rendering taxable services at retail to the extent and in the manner provided in Sections 144.010 to 144.526, RSMo., and the rules and regulations of the Director of Revenue issued pursuant thereto; except that the rate of the tax shall be imposed by the ordinance as the City sales tax. The amounts 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 144.526, RSMo., and the taxes imposed by this Chapter.
- B. All applicable provisions contained in Sections 144.010 to 144.526, RSMo., governing the State sales tax and Section 32.057, RSMo., the uniform confidentiality provision, shall apply to the collection of the tax imposed by this Chapter, except as modified in Sections 94.700 to 94.755, RSMo. (CC 1996 §365.040)

SECTION 145.050:**GOVERNING STATUTES**

- A. All exemptions granted to agencies of the government, organizations, persons and to the sale of certain articles and items of tangible personal property and taxable services under the provisions of Sections 144.010 to 144.526, RSMo., are hereby made applicable to the imposition and collection of the tax imposed by this Chapter.
- B. The same sales tax permit, exemption certificate and retail certificate required by Sections 144.010 to 144.526, RSMo., for the administration and collection of the State sales tax shall satisfy the requirements of this Chapter and no additional permit or exemption certificate or retail certificate shall be required; except that the Director of Revenue may prescribe a form of exemption certificate for an exemption from the tax imposed by this Chapter.
- C. All discounts allowed the retailer under the provisions of the State sales tax law for the collection of and for payment of taxes under that tax are hereby allowed and made applicable to any taxes collected under the provisions of this Chapter.
- D. The penalties provided in Sections 32.057 and 144.010, RSMo., for a violation of those acts are hereby made applicable to violations of this Chapter. (CC 1996 §365.050)

SECTION 145.060:**PLACE OF SALE**

- A. For the purposes of a sales tax imposed by this Chapter, retail sales except retail sales of farm machinery shall be deemed to be consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his/her agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. In the event a retailer

has more than one (1) place of business in this State which participates in the sale, the sale shall be deemed to be consummated at the place of business in this State which participates in the sale, the sale shall be deemed to be consummated at the place of business of the retailer where the initial order for the tangible personal property is taken, even though the order must be forwarded elsewhere for acceptance, approval or credit, shipment or billing. A sale by a retailer's employee shall be deemed to be consummated at the place of business from which he/she works.

- B. For the purposes of a sales tax imposed by this Chapter, the retail sale of farm machinery shall be deemed to be consummated at the residence of the purchaser and not at the place of business of the retailer, or the place of business from which the retailer's employee works.
- C. As used in this Chapter, "*farm machinery*" means new or used farm tractors, cultivating and harvesting equipment which ordinarily is attached thereto, combine, cornpickers, cottonpickers, farm trailers, and such other new or used farm equipment or machinery which are used exclusively for agricultural purposes as the Director of Revenue may exempt by rule or regulation of the department. (CC 1996 §365.060)

SECTION 145.070:**MOTOR VEHICLES AND BOATS**

City sales taxes imposed by this Chapter on the purchase and sale of motor vehicles and trailers shall not be collected and remitted by the seller, but shall be collected by the Director of Revenue at the time application is made for a certificate of title, if the address of the applicant is within a City imposing a City sales tax. The amounts so collected shall be deposited in the City Sales Tax Trust Fund to credit of proper Cities, less the one percent (1%) collection cost.

- 1. Any sales tax imposed under this Chapter shall be collected on the purchase and sale of boats and outboard motors in accordance with this Section if the place where the sale of such boats and outboard motors is deemed consummated is within the City wherein a sales tax is imposed under this Chapter. The purchase or sale of boats and outboard motors shall be deemed to be consummated at the address of the applicant.
- 2. As used in this Section, the term "*boat*" shall only include motorboats and vessels as the terms "*motorboat*" and "*vessel*" are defined in Section 306.010, RSMo. (CC 1996 §365.070)

SECTION 145.080:**DEDICATED FUNDS**

All monies received by the City under the provisions of Section 145.010 through Section 145.070 shall be deposited by the City Treasurer or other City Officer authorized by the Mayor into special funds to be known as the City Transportation Fund and the City Capital Improvements Fund. All monies received shall be apportioned so that each fund receives the proper sums due from the taxes collected. All monies in the City Transportation Fund shall be apportioned and disbursed only for transportation purposes as enumerated in Sections 94.700 to 94.755, RSMo. All monies in the City Capital Improvements Fund shall be apportioned and disbursed only for capital improvements or as otherwise provided for by Statute. (CC 1996 §365.080)

SECTION 145.090:

SALES TAX ON RESIDENTIAL UTILITIES

- A. The City sales tax on all sales of metered water service, electricity current, natural, artificial or propane gas, wood, coal or home heating oil used for non-business, non-commercial or non-industrial purposes is hereby imposed.
- B. The rate of taxation shall be one and one-half percent (1½%).
- C. The City Administrator is directed to provide copies of this Chapter to all utilities which provide service within the corporate limits of the City and to the Director of Revenue for the State of Missouri. (CC 1996 §610.060)