

TITLE I. GOVERNMENT CODE

CHAPTER 100: GENERAL PROVISIONS

ARTICLE I. CITY INCORPORATION AND SEAL

SECTION 100.010: MUNICIPAL CORPORATION

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

SECTION 100.020: CITY SEAL

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

ARTICLE II. GENERAL CODE PROVISIONS

SECTION 100.030: CONTENTS OF CODE

This Code contains all ordinances of a general and permanent nature of the City of Gerald, 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 "*Gerald, Missouri, City Code.*"

SECTION 100.050: OFFICIAL COPY OF CODE

The Official Copy of this Code, bearing the signature of the Mayor and attestation of the City Clerk as to its adoption shall be kept on file in the office of the City Clerk. An extra copy of this Code shall be kept in the City Clerk's office available for public inspection.

SECTION 100.060: ALTERING CODE

It shall be unlawful for any person to change or amend by additions or deletions any part or portion of this Code, or to insert or delete pages, or portions thereof, or to alter or tamper with such Official Copy of the Code in any manner whatsoever which will cause the law of the City to be misrepresented thereby. Any person, firm or corporation violating this Section shall be punished as provided in Section 100.100 of this Code.

SECTION 100.070: NUMBERING OF CODE

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

SECTION 100.080: AMENDMENTS TO CODE

All amendments to this Code, duly passed by the Board of Aldermen, shall be prepared by the City Clerk for insertion in this Code.

SECTION 100.090: 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 Gerald, Missouri.

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

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

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

MAY: The word "*may*" is permissive.

MAYOR: The Mayor of the Board of Aldermen of City of Gerald, Missouri.

MONTH: A calendar month.

OATH: Shall be construed to include an affirmation in all cases in which an affirmation may be substituted for an oath, and in such cases the words "*swear*" and "*sworn*" shall be equivalent to the words "*affirm*" and "*affirmed*."

OWNER: 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: Shall include a corporation, firm, partnership, association, organization and any other group acting as a unit as well as individuals. It shall also include an executor, administrator, trustee, receiver or other representative appointed according to law. Whenever the word "*person*" is used in any Section of this Code prescribing a penalty or fine, as to partnerships or associations, the word shall include the partners or members thereof, and as to corporations, shall include the officers, agents or members thereof who are responsible for any violation of such Section.

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

PRECEDING, FOLLOWING: The words "*preceding*" and "*following*" shall mean next before and next after, respectively.

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: The word "*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.

SIGNATURE: Where the written signature of any person is required, the proper handwriting of such person or his/her mark shall be intended.

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

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

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

WRITING: The words "*in writing*" and "*written*" shall include printing, lithographing or any other mode of representing words and letters.

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.

ARTICLE III. PENALTY

SECTION 100.100: 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 or misdemeanor 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, and no specific penalty is provided for the violation thereof, upon conviction of a violation of any such provision of this Code or of any such ordinance, rule, regulation, notice or order, the violator shall be punished by a fine not exceeding five hundred dollars (\$500.00) or by imprisonment in the City or County Jail not exceeding ninety (90) days or by both such fine and imprisonment; provided, that in any case wherein the penalty for an offense is fixed by a Statute of the State, the statutory penalty, and no other, shall be imposed for such offense, except that imprisonments may be in the City Prison or workhouse instead of the County Jail.
- B. Every day any violation of this Code or any other ordinance or any such rule, regulation, notice or order shall continue shall constitute a separate offense.
- C. Whenever any act is prohibited by this Code, by an amendment thereof, or by any rule or regulation adopted thereunder, such prohibition shall extend to and include the causing, securing, aiding, or abetting of another person to do said act. Whenever any act is prohibited by this Code, an attempt to do the act is likewise prohibited.

CHAPTER 105: ELECTIONS

ARTICLE I. 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 in April of each year.
- B. On the first (1st) Tuesday in April of odd-numbered years, a municipal election of the qualified voters of the City of Gerald shall be held for the purpose of electing a Mayor and one (1) Alderman from each Ward who shall hold their offices for a term of two (2) years, and until their successors are elected and qualified.
- C. On the first (1st) Tuesday in April of even-numbered years, a municipal election of the qualified voters of the City of Gerald shall be held for the purpose of electing one (1) Alderman from each Ward, who shall hold their offices for a term of two (2) years, and until their successors are 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 fifteenth (15th) 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 105.040: DECLARATION OF CANDIDACY—NOTICE TO PUBLIC

The City Clerk shall on or before the sixteenth (16th) Tuesday prior to an 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 newspaper of general circulation in the City.

SECTION 105.050: DECLARATION OF CANDIDACY—FORM

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

STATEMENT OF CANDIDACY

STATE OF MISSOURI)
) SS.
COUNTY OF FRANKLIN)

I, _____, being first duly sworn, state that I reside at _____, City of Gerald, County of Franklin, Missouri; that I am a qualified voter in the ward containing my place of residence; that I do hereby declare myself a candidate for the office of (here name the office), to be voted upon at the municipal election to be held on the first (1st) Tuesday of April, 19__, and am eligible therefor, and I hereby request that my name be printed upon the official ballot for said election for said office, and state that I will serve as such officer, if elected.

Signed:

Subscribed and sworn to before me this ___ day of _____, 19__.

City Clerk
City of Gerald

(S E A L)

SECTION 105.060: CONDUCT OF ELECTIONS

The County Clerk, as the designated election authority, by State Statute, shall conduct all City elections.

SECTION 105.070: NOTICE OF ELECTIONS

In City elections, conducted by the County Clerk, the City Clerk shall notify the County Clerk prior to 5:00 P.M. on the tenth (10th) Tuesday prior to any City election or within seven (7) days after the candidates names are certified, whichever is later, of the forthcoming City election. The notice shall be in writing, shall specify that the Board of Aldermen is calling the election, the purpose of the election, the date of the election, and shall include a certified copy of the legal notice to be published including the sample ballot. The written notice shall be executed on behalf of the Board of Aldermen by the Mayor of the Board, and shall include the attestation of the City Clerk and shall have affixed thereto the Seal of the City of Gerald.

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Elections

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ARTICLE II. WARDS

SECTION 105.080: WARDS

- A. All citizens living East of Main Street and North of Industrial Drive West of Highway Y and as far East as the corporate limits of the City of Gerald shall be considered to be residing in Ward 1.
- B. All citizens living West of Main Street and South of Industrial Drive and as far West as the corporate limits of the City of Gerald shall be considered to be residing in Ward 2. (Ord. No. 207 §§2-3, 10-14-76; Ord. No. 503 §§1-2, 11-8-01)

CHAPTER 110: MAYOR AND BOARD OF ALDERMEN

ARTICLE I. MAYOR AND BOARD OF ALDERMAN—GENERALLY

Cross Reference—As to vacancies in office, see §115.080.

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, a registered voter and an inhabitant and resident of the City for one (1) year next preceding his/her election, and a resident of the ward from which he/she is elected.

SECTION 110.020: MAYOR, QUALIFICATIONS

No person shall be Mayor unless he/she be at least twenty-five (25) years of age, a citizen of the United States, a registered voter 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 the City shall have the care, management and control of the City and its finances, and shall have power to enact and ordain any and all ordinances not repugnant to the Constitution and laws of this State, and such as they shall deem expedient for the good government of the City, the preservation of peace and good order, the benefit of trade and commerce and the health of the inhabitants thereof, and such other ordinances, rules and regulations as may be deemed necessary to carry such powers into effect, and to alter, modify or repeal the same.

SECTION 110.055: MAYORAL COMMITTEE APPOINTMENTS

- A. The Mayor shall appoint annually, at the first (1st) regular meeting following the April election, standing committees consisting of two (2) Board of Aldermen members for the following committees:

Police and Safety
Sewer, Water and Streets
Business, Industry and Grants
Parks and Beautification

- B. Department heads shall communicate all matters to come before the full Board of Aldermen through their respective committee members.
- C. Furthermore, one (1) member of the Board of Aldermen shall be appointed to the Planning and Zoning Board as per Chapter 400 of the Municipal Code of the City of Gerald. (Ord. No. 530 §1, 2-13-03)

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 Gerald, 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

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.

§ 110.090

Mayor And Board Of Aldermen

§ 110.100

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, in July and January of each year, 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 hereof, the City Treasurer 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. If the City Treasurer violates the provisions of this Section he/she shall be deemed guilty of a misdemeanor.

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

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

SECTION 110.130: MAYOR TO SIGN COMMISSIONS

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

SECTION 110.140: MAYOR SHALL HAVE THE POWER TO ENFORCE LAWS

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

SECTION 110.150: MAYOR—COMMUNICATIONS TO BOARD

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

SECTION 110.160: MAYOR MAY REMIT FINE, GRANT PARDON

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

ARTICLE II. BOARD OF ALDERMEN MEETINGS

SECTION 110.170: REGULAR MEETINGS

The Board of Aldermen of the City of Gerald, Missouri, shall meet in regular session in the Council Room of the City Hall, 430 West Fitzgerald on the second (2nd) Thursday at 7:30 P.M. of each month.

SECTION 110.180: SPECIAL MEETINGS

Special meetings may be called by the Mayor or by any two (2) members of the Board by written request filed with the City Clerk, who shall thereupon prepare a notice of such special meeting, stating time, place and object thereof, which notice shall be served personally or by telephone upon each member of the Board or left at his/her usual place of residence at least twenty-four (24) hours before the time of the meeting and appropriate notice to the public pursuant to the requirements of Chapter 610, RSMo. It shall also be the duty of the City Clerk, immediately upon receipt of the request for the meeting, to make diligent effort to notify each member of the Board in person, either by telephone or otherwise, of such special session.

- .1. The City Clerk shall make a diligent effort to notify those members of the mass media who customarily attend meetings of the Board of Aldermen of the special session, in the same manner as described above.
- .2. Failure to comply with the requirements of this Section shall not invalidate any action taken at a special meeting of the Board of Aldermen.

SECTION 110.190: QUORUM

A quorum of the Board of Aldermen shall consist of a majority of the full membership of the Board of Aldermen.

SECTION 110.200: COMPELLING ATTENDANCE

In case that a lesser number than a quorum shall convene at a regular or special meeting of the Board of Aldermen, the majority of the members present are authorized to direct the Chief of Police or other City Officer to send for and compel the attendance of any or all absent members upon such terms and conditions and at such time as such majority of the members present shall agree.

SECTION 110.210: EFFECT OF ADJOURNED MEETINGS

All adjourned meetings of the Board shall, to all intents and purposes, be continuations of the meetings of which they are adjournments, and the same proceedings may be had at such adjourned meetings as at the meeting of which they are adjournments.

CHAPTER 115: CITY OFFICIALS

ARTICLE I. GENERAL PROVISIONS

SECTION 115.010: ELECTIVE OFFICERS—TERM

The following officers shall be elected by the qualified voters of the City, and shall hold office for the term of two (2) years, except as otherwise provided in this Section, and until their successors are elected and qualified, to wit: Mayor and Board of Aldermen. (CC 1987 §21.100)

SECTION 115.020: ELECTION OF ALDERMEN

There shall be two (2) Aldermen who shall be elected from each Ward by the qualified voters thereof.

SECTION 115.030: APPOINTIVE OFFICERS—TERM

- A. The Mayor, with the consent and approval of the majority of the members of the Board of Aldermen, shall have power to appoint a Deputy City Clerk, Municipal Judge, Chief of Police, City Treasurer, City Attorney, Street/Water Commissioner 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.
- B. All appointive officers shall be appointed to serve at the pleasure of the Mayor and the Board of Aldermen, except as provided otherwise by the laws and Statutes of Missouri.
(CC 1987 §§21.100; 21.110)

SECTION 115.040: 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 115.050: 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 115.060: 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 the Fourth 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 following officers required to be bonded: City Clerk, Deputy City Clerk.

SECTION 115.070: SALARIES FIXED BY ORDINANCE

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

SECTION 115.080: 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. 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 115.090: 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. And bonds may be required of any such Officers for faithfulness in office in all respects.

ARTICLE II. CITY CLERK

SECTION 115.100: SELECTION BY BOARD OF ALDERMEN

The Board of Aldermen shall elect a City Clerk at the first (1st) meeting of the Board after each annual election on the first (1st) Tuesday in April of each year, who shall hold office for one (1) year and until his/her successor is elected and qualified. (CC 1987 §21.500)

SECTION 115.110: CITY CLERK—DUTIES

Among other things, the City Clerk shall keep a journal of the proceedings of the Board of Aldermen. He/she shall safely and properly keep all the records and papers belonging to the City which may be entrusted to his/her care; he/she shall be the general accountant of the City; he/she is hereby empowered to administer official oaths and oaths to persons certifying to demands or claims against the City.

ARTICLE III. CITY TREASURER

SECTION 115.120: APPOINTMENT

The Mayor, with the advice and consent of the Board of Aldermen, at the first (1st) meeting after each annual City election shall appoint a suitable person as City Treasurer who shall hold office for one (1) year and until his/her successor is appointed and qualified. (CC 1987 §21.700)

ARTICLE IV. CITY ATTORNEY

SECTION 115.130: APPOINTMENT—TERM

- A. The Mayor, with the advice and consent of the Board of Aldermen, at the first (1st) meeting after each annual City election shall appoint a suitable person as City Attorney who shall hold office for one (1) year, unless sooner removed from office, and until his/her successor is appointed and qualified.
- B. *Qualifications.* No person shall be appointed to the office of City Attorney unless he/she be a licensed and practicing attorney at law in this State.
- C. *Temporary Absence—Acting City Attorney.* In case of absence, sickness or other inability of the City Attorney to attend court, or when, before assuming his/her official duties, he/she shall have been counsel adverse to the City, he/she shall inform the Mayor thereof, in writing, and the Mayor shall appoint some other attorney to represent the City in such cases, or during temporary absence, sickness or inability. Should the City Attorney fail, neglect, or refuse to give such notice, as above provided, and the interests of the City in case of such failure, neglect or refusal, need the immediate services of an attorney, then the Mayor may appoint some other attorney to attend to such cases, who shall

who shall receive the compensation allowed to the City Attorney for like services.

SECTION 115.140: DUTIES, GENERALLY

The City Attorney shall, in addition to his/her other duties which are or may be required by this Code or other ordinance, when ordered by the Mayor or Board of Aldermen to do so, to prosecute or defend all suits and actions originating or pending in any court of this State, to which the City is a party, or in which the City is interested.

- .1. It shall be the duty of the City Attorney to prosecute all persons charged with a violation of this Code or other ordinance of the City, when the same be a contested case.
- .2. The City Attorney shall make, and he/she is hereby authorized and empowered to make, affidavits on behalf of the City in all cases where the same may be necessary in taking an appeal or change of venue or any other matter necessary to proper legal proceedings.
- .3. The City Attorney shall give his/her opinion to all City Officials when authorized by the Board of Aldermen to do so. (CC 1987 §21.420)

SECTION 115.150: REPORT TO BOARD OF ALDERMEN

- A. The City Attorney shall attend all meetings of the Board of Aldermen unless excused by the Mayor or a majority of the Board of Aldermen. Any member of the Board of Aldermen may at any time call upon the City Attorney for an oral or written opinion to decide any question of law, but not to decide upon any parliamentary rules or to resolve any dispute over the propriety of proposed legislative action.
- B. The City Attorney shall report to the Board of Aldermen the condition of any matters pending or unsettled in the City Municipal Court, or any other proceeding pending in any other court of which he/she may have charge under orders of the Mayor or Board of Aldermen. (CC 1987 §21.430)

ARTICLE V. MISCELLANEOUS PROVISIONS

SECTION 115.160: OFFICERS TO REPORT RECEIPTS AND EXPENDITURES

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

SECTION 115.170: MAYOR OR BOARD MAY INSPECT BOOKS AND RECORDS OF OFFICERS

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

SECTION 115.180: INDEMNIFICATION OF OFFICERS AND EMPLOYEES

Each member of the Board of Aldermen, and every other elected or appointed official, officer and employee of the City of Gerald including members of any boards or commissions, and his/her legal representatives, shall be indemnified by the City against liabilities, expenses, counsel fees and costs reasonably incurred by him/her or his/her estate in connection with or arising out of any action, suit, proceeding or claim in which he/she is made a party by reason of his/her having served the City in any such capacity; provided that such indemnity shall not apply with respect to any such matter, claim, suit, or proceeding where the person to be indemnified hereunder has valid, collectible insurance coverage for such liability, loss, cost or expense; and provided further, that the City shall not indemnify any such person with respect to any matters as to which he/she shall be finally adjudged in any such action, suit or proceeding to have been liable for negligence or misconduct in the performance of his/her duties as such member, officer, official, or employee.

(CC 1987 §21.115)

SECTION 115.190: HOLIDAYS

Employees shall be allowed the following paid holidays: New Year's Day; Martin Luther King Day; Presidents' Day; Memorial Day; Independence Day; Labor Day; Veterans Day; Thanksgiving Day and the day thereafter; Christmas Eve; and Christmas Day.

- .1. When any of the above holidays fall on a Saturday, such holiday will be observed on the preceding Friday. When any of the above holidays fall on a Sunday, such holiday will be observed on the following Monday.
- .2. When any of the above holidays fall during an employee's vacation or sick leave, such observed holiday will not be charged against the employee's vacation or sick leave allowance.
- .3. New employees, during their review period, shall not be paid for said holiday.
- .4. Hourly employees shall be paid for holidays, but must work regularly scheduled day before and after such holiday.
- .5. Hourly employees, who are required to work on any of said holidays, shall be compensated therefore at a rate of one and one-half (1½) hours for each hour of actual hours worked.

(Ord. No. 441 §1, 4-8-99)

SECTION 115.200: PERSONNEL POLICY

A "Personnel Policy - General Provisions", "Substance Abuse Policy", "Drug and Alcohol Testing Policy", "Harassment Policy" and "Employee Job Descriptions", a copy of which is marked "Exhibit A" to Ordinance No. 457, is on file in the City offices and made a part hereof, is hereby adopted. (Ord. No. 457 §1, 10-12-99)

CHAPTER 120: BOARDS, COMMISSIONS AND COMMITTEES

ARTICLE I. PARK AND RECREATION BOARD

SECTION 120.010: PARK AND RECREATION BOARD

Under the authority of the State Laws of Missouri, Sections 90.500 to 90.570, RSMo., there be and is hereby created a Park and Recreation Board (hereafter referred to as "*Board*") in the City of Gerald, Missouri, the Directors of which shall be appointed by the Mayor, subject to the consent of the Board of Aldermen and shall consist of nine (9) members. Directors appointed to the Board must be citizens and shall have been residents of the City of Gerald, Missouri, for at least two (2) years immediately prior to their appointment. No member of the Municipal Government shall be a member of said Board. (Ord. No. 198 §1, 7-23-75)

SECTION 120.020: TERMS OF DIRECTORS

- A. Such members shall hold their respective office from the first (1st) day of June following their appointment. They shall be appointed for a term of three (3) years, except that those appointed at a first meeting shall cast lots for their respective terms, three (3) members to serve three (3) years, three (3) members to serve two (2) years and three (3) members to serve one (1) year. All initial terms of office shall be retroactive to June 1, 1975. Annually and thereafter, on or before the first (1st) meeting in June, the Mayor shall, by and with the consent of the Council, appoint three (3) Directors, who shall hold office for three (3) years.
- B. The Mayor may, by and with the consent of the Board of Aldermen, remove any member of the Board for misconduct or neglect of duty.
- C. Vacancies occasioned by removal, resignation or otherwise, shall be reported to the Board of Aldermen, and shall be filled in like manner as original appointments, except that the term of office is restricted to the unexpired term of office. No member of the Board shall receive compensation as such. (Ord. No. 198 §2, 7-23-75)

SECTION 120.030: OFFICERS—RULES AND POWERS

The Park and Recreation Board shall, immediately after the appointment of members, meet and organize by the election of one (1) member as President, Vice-President, Secretary and Treasurer. The Park and Recreation Board shall make and adopt such by-laws, rules and regulations for its own guidance and proceedings as may be expedient, not inconsistent with this Article and with Sections 90.500 to 90.570, RSMo. (Ord. No. 198 §3, 7-23-75)

SECTION 120.035: REGULAR MEETINGS

The Park and Recreation Board of the City of Gerald shall meet in regular session in the Council Room or the City Hall, 430 W. Fitzgerald, on the third (3rd) Tuesday of each month at 7:30 P.M. with the exception of December and January, when no regular meetings will be held.

SECTION 120.040: DUTIES AND RESPONSIBILITIES

The Park and Recreation Board shall:

- .1. Survey and make plans for the development and maintenance of facilities and activities for an adequate Municipal Park System.
- .2. Have exclusive control of the expenditures of all money collected to the credit of the Park Fund, for the supervision, improvement, care, acquisition and custody of the parks.
- .3. Deposit all monies received for such parks in the Treasury of the City of Gerald to the credit of the Park Fund which shall be kept separate and apart from all other monies and accounts of the City of Gerald and be drawn upon by the proper officers of the City of Gerald upon the properly authenticated vouchers of the Park Board.
- .4. Have power to appoint a suitable person to take charge of said Parks and necessary assistants, if required for said person, and to fix their compensation. The Board shall also have power to remove such appointees and shall, in general carry out the spirit and intent of Sections 90.500 to 90.570, RSMo., in establishing and maintaining Public Parks. (Ord. No. 198 §4, 7-23-75; Ord. No. 600 §1, 1-11-07)

SECTION 120.050: ANNUAL REPORTS

The President of the Park Board shall present to the Board of Aldermen an annual report. Such report shall be presented at the first (1st) Board meeting in January of each year and shall consist of:

- .1. The condition of their trust as of the last day of December of that year.
- .2. The various sums of money received from the Park Fund, and other sources.
- .3. The sums of money expended by the Board and for what purposes.
- .4. Such other statistics, information and suggestions as the Board may deem to be of general interest.
- .5. Submit a proposed park and recreation budget for the coming year at the first (1st) meeting in December of each year for approval and inclusion in the City Budget.
- .6. Make recommendations for improving the park and recreation program and facilities.
- .7. Submit an annual planned program for the use of the parks, recreation facilities and areas.
- .8. All such portions of said report as related to the receipts and expenditures of money shall be verified by affidavits. (Ord. No. 198 §5, 7-23-75)

SECTION 120.060: PRIVATE DONATIONS

The Park Board shall be held as special Trustees for all donations of money, personal property or real estate for the benefit of such park, whenever such donations are accepted according to the terms

§ 120.060

Boards, Commissions And Committees

§ 120.070

of the deeds, gift, device or bequest of such property. (Ord. No. 198 §6, 7-23-75)

SECTION 120.070: RULES AND REGULATION OF AUTHORITY

The Park and Recreation Board shall have the power and authority to make, adopt and amend rules and regulations concerning the hours, use and operations of the City Park and that said rules and regulations shall be submitted in writing to the Board of Aldermen for their approval. Any violation of this Article shall be deemed a misdemeanor. (Ord. No. 198 §7, 7-23-75)

CHAPTER 125: OPEN MEETINGS AND RECORDS

ARTICLE I. OPEN MEETING AND RECORDS

SECTION 125.010: CLOSED MEETINGS AND CLOSED RECORDS AUTHORIZED WHEN, EXCEPTIONS

Except to the extent disclosure is otherwise required by law, a public governmental body is authorized to close meetings, records and votes, to the extent they relate to the following:

- .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 or vote relating to litigation involving a public governmental body shall be made public upon final disposition of the matter voted upon; provided however, in matters involving the exercise of the power of eminent domain, the vote shall be announced or become public immediately following the action on the motion to authorize institution of such a legal action. Legal work product shall be considered a closed record;
- .2. Leasing, purchase or sale of real estate by a public governmental body where public knowledge of the transaction might adversely affect the legal consideration therefor. However, any minutes or vote or public record approving a contract relating to the leasing, purchase or sale of real estate by a public governmental body shall be made public 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 must be made available 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 Subdivision, the term "*personal information*" means information relating to the performance or merit of individual employees;
- .4. The State militia or National Guard or any part thereof;
- .5. Nonjudicial mental or physical health proceedings involving identifiable persons, including medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment;
- .6. Scholastic probation, expulsion, or graduation of identifiable individuals, including records of individual test or examination scores; however, personally identifiable student records maintained by public educational institutions shall be open for inspection by the parents, guardian or other custodian of students under the age of eighteen (18) years and by the parents, guardian or other custodian and the student if the student is over the age of eighteen (18) years;

- .7. Testing and examination materials, before the test or examination is given or, if it is to be given again, before so given again;
- .8. Welfare cases of identifiable individuals;

- .9. Preparation, including any discussions or work product, on behalf of a public governmental body or its representatives for negotiations with employee groups;
- .10. Software codes for electronic data processing and documentation thereof;
- .11. Specifications for competitive bidding, until either the specifications are officially approved by the public governmental body or the specifications are published for bid;
- .12. 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;
- .13. 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;
- .14. Records which are protected from disclosure by law;
- .15. Meetings and public records relating to scientific and technological innovations in which the owner has a proprietary interest.

SECTION 125.020: CLOSED MEETINGS, PROCEDURE AND LIMITATION—PUBLIC RECORDS PRESUMED OPEN UNLESS—EXEMPT

- A. Except as set forth in Subsection (B) of this Section, 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 public 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 Article shall be announced publicly at an open meeting of the governmental body and entered into the minutes.
- B. A public governmental body proposing to hold a closed meeting or vote shall give notice of the time, date and place of such closed meeting or vote and the reason for holding it by reference to the specific exception allowed under the provisions of Section 125.010 hereof. Such notice shall comply with the procedures set forth in Section 610.020, RSMo., for notice of a public meeting.
- C. Any meeting or vote closed pursuant to Section 125.010 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.
- D. Nothing in this Article shall be construed as to require a public governmental body to hold a closed meeting, record or vote to discuss or act upon any matter.
- E. Public records shall be presumed to be open unless otherwise exempt under the provisions of Section 125.010.

SECTION 125.030: RECORDS OF CITY TO BE IN CARE OF CUSTODIAN, DUTIES—RECORDS BE COPIED BUT NOT REMOVED, EXCEPTION, PROCEDURE—DENIAL OF ACCESS, PROCEDURE

- A. The City is to appoint a custodian as set out in Section 125.040, who is to be responsible for the maintenance of the City's records. The identity and location of the City's custodian is to be made available upon request.
- B. The City shall make available for inspection, by the public, the City's public records. No person shall remove original public records from the office of the City or its custodian without written permission of the designated custodian. Copies of the records will be made by the custodian at a cost of one dollar (\$1.00) per printed page and pre-payment will be required.
- C. Each request for access to a public record or copying of a public record must be in writing and 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 the City. 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 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. (Ord. No. 473 §1, 6-8-00)

ARTICLE II. RECORDS

SECTION 125.040: CITY CLERK TO KEEP RECORDS

The records of the City shall be kept in the custody of the City Clerk.

- .1. As used in this Article, the word "*record*" or "*records*" shall mean any document, book, paper, photograph, map, sound recording or other material, regardless of physical form or characteristics, made or received pursuant to law or in connection with the transaction of official business. Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents are not included within the definition of records as used in this Article, and are hereinafter designated as "*non-record*" materials.
- .2. The City Clerk may designate a subordinate or another City Official authority to have temporary custody of City records, after satisfying himself/herself as to the safety of said records.

SECTION 125.050: DESTRUCTION OF RECORDS AND NON-RECORD MATERIALS

All records made or received by or under the authority of or coming into the custody, control or possession of local officials in the course of their public duties are the property of the City and shall not be mutilated, destroyed, transferred, removed or otherwise damaged or disposed of, in whole or in part, except as provided by law.

- .1. No record shall be destroyed or otherwise disposed of unless it is determined that the record has no further administrative, legal, fiscal, research or historical value.
- .2. Non-record materials or materials not included within the definition of records may, if not otherwise prohibited by law, be destroyed at any time, if same have the approval of the Missouri Local Records Board.
- .3. Records of the City may be disposed of or destroyed without the approval of the Missouri Local Records Board, if the same is permitted by the State Municipal Records Manual. Records may be retained for a period of time longer than the minimum retention period required by the State Municipal Records Manual, at the discretion of the Board of Aldermen.

CHAPTER 130: MUNICIPAL COURT

SECTION 130.010: ESTABLISHMENT

There is hereby established in this City a Municipal Court, to be known as the "*Gerald Municipal Court, a Division of the Twentieth Judicial Circuit of the State of Missouri.*" This Court is a continuation of the Police Court of the City as previously established, and is termed herein "*the Municipal Court.*" (Ord. No. 223 §2(223.010), 12-21-78)

SECTION 130.020: JURISDICTION

The jurisdiction of the Municipal Court shall extend to all cases involving alleged violations of the ordinances of the City. (Ord. No. 223 §2(223.020), 12-21-78)

SECTION 130.030: SELECTION OF JUDGE

The Judge of the City's Municipal Court shall be known as a Municipal Judge of the Twentieth Judicial Circuit Court, and shall be selected as follows:

He/she shall be appointed to his/her position by the Mayor, subject to the confirmation of the Board of Aldermen, for a term as specified herein. (Ord. No. 223 §2(223.030), 12-21-78)

SECTION 130.040: TERM OF OFFICE

The Municipal Judge shall hold his/her office for a period of two (2) years and shall take office bi-annually from the last Tuesday in April commencing with the year 1979. If for any reason a Municipal Judge vacates his/her office, his/her successor shall complete that term of office, even if the same be for less than two (2) years. (Ord. No. 223 §2(223.040), 12-21-78)

SECTION 130.050: VACATION OF OFFICE

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

1. Upon removal from office by the State Commission on the Retirement, Removal and Discipline of Judges, as provided in Missouri Supreme Court Rule 12;
2. Upon attaining his/her seventieth (70th) birthday;
3. If the Municipal Judge is not a lawyer, should he/she fail, within six (6) months of his/her selection, to satisfactorily complete a course of instruction for Municipal Judges as prescribed by the State Supreme Court; or
4. If the Municipal Judge is a lawyer, if he/she should lose his/her license to practice law within the State of Missouri. (Ord. No. 223 §2(223.050), 12-21-78)

SECTION 130.060: QUALIFICATIONS FOR OFFICE

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

- .1. He/she need not be a licensed attorney, qualified to practice law within the State of Missouri.
- .2. He/she need not reside within the City.
- .3. He/she must be a resident of the State of Missouri.
- .4. He/she must be between the ages of twenty-one (21) and seventy (70) years.
- .5. He/she may serve as Municipal Judge for any other municipality.
- .6. He/she may not hold any other office within the City Government.
- .7. If the Municipal Judge is not a licensed attorney, he/she must within six (6) months after his/her selection to the position, satisfactorily complete a course of instruction for Municipal Judges as prescribed by the State Supreme Court.
- .8. The Municipal Judge shall be considered holding a part-time position, and as such may accept, within the requirements of the Code of Judicial Conduct under Missouri Supreme Court Rule 2, other employment. (Ord. No. 223 §2(223.060), 12-21-78)

SECTION 130.070: SUPERINTENDING AUTHORITY

The Municipal Court of the City shall be subject to the rules of the Circuit Court of which it is a part, and to the rules of the State Supreme Court. The Municipal Court shall be subject to the general administrative authority of the Presiding Judge of the Circuit Court, and the Judge and Court personnel of said Court shall obey his/her directives. (Ord. No. 223 §2(223.070), 12-21-78)

SECTION 130.080: REPORT TO BOARD OF ALDERMEN

The Municipal Judge shall cause to be prepared within the first ten (10) days of every month a report indicating the following:

A list of all cases heard and tried before the Court 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 the defendants committed and in the cases where there was an application for trial de novo, respectively. The same shall be prepared under oath by the Municipal Court Clerk of the Municipal Judge. This report will be filed with the City Clerk, who shall thereafter forward the same to the Board of Aldermen of the City for examination at its first (1st) session thereafter. The Municipal Court shall, within the ten (10) days after the first (1st) of the month, pay to the Municipal Treasurer the full amount of all fines collected during the preceding months, if they have not previously been paid.
(Ord. No. 223 §2(223.080), 12-21-78)

SECTION 130.090: DOCKET AND COURT RECORDS

The Municipal Judge shall keep a docket in which he/she shall enter every case commenced before

§ 130.090

Municipal Court

§ 130.120

him/her and the proceedings therein, and he/she shall keep such other records as may be required. Such docket and records shall be records of the Circuit Court of Franklin County. The Municipal Judge shall deliver the docket and records of the Municipal Court, and all books and papers pertaining to his/her office, to his/her successor in office, or to the Presiding Judge of the Circuit. (Ord. No. 223 §2(223.090), 12-21-78)

SECTION 130.100: MUNICIPAL JUDGE—POWERS AND DUTIES

The Municipal Judge shall be and is hereby authorized to:

- .1. Establish a Traffic Violations Bureau as provided for in the Missouri Rules of Practice and Procedure in Municipal and Traffic Courts and Section 479.050, RSMo.
- .2. Administer oaths and enforce due obedience to all orders, rules and judgements made by him/her, and may fine and imprison for contempt committed before him/her while holding Court, in the same manner and to the same extent as a Circuit Judge.
- .3. Commute the term of any sentence, stay execution of any fine or sentence, suspend any fine or sentence, and make such other orders as the Associate Circuit may deem necessary relative to any matter that may be pending in the Municipal Court.
- .4. Make and adopt such rules of practice and procedure as are necessary to implement and carry out the provisions of this Chapter, and to make and adopt such rules of practice and procedure as are necessary to hear and decide matters pending before the Municipal Court and to implement and carry out the provisions of the Missouri Rules of Practice and Procedure in Municipal and Traffic Courts. Any and all rules made or adopted hereunder may be annulled or amended by an ordinance limited to such purpose; provided that such ordinance does not violate, or conflict with, the provisions of the Missouri Rules of Practice and Procedure in Municipal and Traffic Courts, or State Statutes.
- .5. The Municipal Judge shall have such other powers, duties and privileges as are or may be prescribed by the laws of this State or the ordinances of this City.
(Ord. No. 223 §2(223.100), 12-21-78)

SECTION 130.110: TRAFFIC VIOLATIONS BUREAU

Should the Municipal Judge determine that there shall be a Traffic Violations Bureau, the City shall provide all expenses incident to the operation of the same. The Municipal Court Clerk is hereby designated as the Traffic Violations Clerk for said Bureau, if established.
(Ord. No. 223 §2(223.110), 12-21-78)

SECTION 130.120: ISSUANCE AND EXECUTION OF WARRANTS

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

(Ord. No. 223 §2(223.120), 12-21-78)

SECTION 130.130: ARRESTS WITHOUT WARRANTS

The Chief of Police or other Police Officer of the City may, without a warrant, make arrest of any person who commits an offense in his/her presence, but such officer shall, before the trial, file a written complaint with the Municipal Judge. (Ord. No. 223 §2(223.130), 12-21-78)

SECTION 130.140: JURY TRIALS

Any person charged with a violation of an ordinance of this City shall be entitled to a trial by jury, as in prosecutions for misdemeanors before an Associate Circuit Judge. Whenever a defendant accused of a violation of a municipal ordinance demands trial by jury, the Municipal Judge shall certify the case to the Presiding Judge of the Circuit Court for reassignment. (Ord. No. 223 §2(223.140), 12-21-78)

SECTION 130.150: DUTIES OF THE CITY'S PROSECUTING ATTORNEY

It shall be the duty of an attorney designed by the Municipality to prosecute the violations of the City's ordinances before the Municipal Judge or before any Circuit Judge hearing violations of the City's ordinances. The salary or fees of the attorney and his/her necessary expenses incurred in such prosecutions shall be paid by the City. The compensation of such attorney shall not be contingent upon the result in any case. (Ord. No. 223 §2(223.150), 12-21-78)

SECTION 130.160: SUMMONING OF WITNESSES

It shall be the duty of the Municipal Judge to summon all persons whose testimony may be deemed essential as witnesses at the trial, and to enforce their attendance by attachment, if necessary. The fees of witnesses shall be the same as those fixed for witnesses in trials before Associate Circuit Judges and shall be taxed as other costs in the case. When a trial shall be continued by a Municipal Judge it shall not be necessary to summon any witnesses who may be present at the continuance; but the Municipal Judge shall orally notify such witnesses as either party may require to attend before him/her on the day set for trial to testify in the case, and enter the names of such witnesses on the docket, which oral notice shall be valid as a summons. (Ord. No. 223 §2(223.160), 12-21-78)

SECTION 130.170: TRANSFER OF COMPLAINT TO ASSOCIATE CIRCUIT JUDGE

If, in the progress of any trial before the Municipal Judge, it shall appear to the Judge that the accused ought to be put upon trial for an offense against the criminal laws of the State and not cognizable before him/her as a Municipal Judge, he/she shall immediately stop all further proceedings before him/her as Municipal Judge and cause the complaint to be made before an Associate Circuit Judge within the County. (Ord. No. 223 §2(223.170), 12-21-78)

SECTION 130.180: JAILING OF DEFENDANTS

The Municipal Judge may commit a Defendant to the County Jail, and it shall be the duty of the Sheriff, if space for the prisoner is available in the County Jail, upon receipt of a Warrant of Commitment from the Judge to receive and safely keep such prisoner until discharged by due process of law. The City shall pay the board of such prisoner at the rate as may now or hereafter be allowed

to such Sheriff for the keeping of such prisoner in his/her custody. The same shall be taxed as costs. (Ord. No. 223 §2(223.180), 12-21-78)

**SECTION 130.190: 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:
 - B.1. Restitution to the victim or any dependent of the victim, in an amount to be determined by the judge; and
 - B.2. The performance of a designated amount of free work for a public or charitable purpose, or purposes, as determined by the judge.
- C. A person may refuse probation conditioned on the performance of free work. If he/she does so, the Court shall decide the extent or duration of sentence or other disposition to be imposed and render judgment accordingly. Any County, City, person, organization, or agency, or employee of a County, City, organization or agency charged with the supervision of such free work or who benefits from its performance shall be immune from any suit by the person placed on parole or probation or any person deriving a cause of action from him/her if such cause of action arises from such supervision of performance, except for intentional torts or gross negligence. The services performed by the probationer or parolee shall not be deemed employment within the meaning of the provisions of Chapter 288, RSMo.
- D. The Court may modify or enlarge the conditions of probation at any time prior to the expiration or termination of the probation term.

SECTION 130.200: RIGHT OF APPEAL—TRIAL DE NOVO

- A. If the Municipal Judge is not a lawyer, the defendant shall have the right to a trial de novo, even from a plea of guilty, before a Circuit Judge or an Associate Circuit Judge. Such application for a trial de novo shall be filed within ten (10) days after the judgement and shall be in the form as provided by Supreme Court rules.
- B. If the Municipal Judge is an attorney, on proper application as above, the defendant shall have a right of trial de novo in Circuit Court in all cases tried before the Municipal Court, except where there has been a plea of guilty or where the case has been tried with a jury. An application for 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 rules.
(Ord. No. 223 §2(223.200), 12-21-78)

SECTION 130.210: APPEAL FROM JURY VERDICTS

In all cases in which a jury trial has been demanded, a record of the proceedings shall be made, and appeals may be had upon that record to the appropriate Appellate Court.
(Ord. No. 223 §2(223.210), 12-21-78)

SECTION 130.220: BREACH OF RECOGNIZANCE

In the case of a breach of any recognizance entered into before a Municipal Judge or an Associate Circuit Judge hearing a municipal ordinance violation case, the same shall be deemed forfeited and the Judge shall cause the same to be prosecuted against the principal and surety, or either of them in the name of the Municipality as plaintiff. Such action shall be prosecuted before a Circuit Judge or Associate Circuit Judge, and in the event of cases caused to be prosecuted by a Municipal Judge, such shall be on the transcript of the proceedings before the Municipal Judge. All monies recovered in such action shall be paid over to the Municipal Treasury to the General Revenue Fund of the Municipality. (Ord. No. 223 §2(223.220), 12-21-78)

SECTION 130.230: DISQUALIFICATION OF MUNICIPAL JUDGE FROM HEARING PARTICULAR CASE

The Municipal Judge shall be disqualified to hear any case in which he/she is in anyway interested, or, if before the trial is begun, the defendant or the prosecutor files an affidavit that the party cannot have a fair and impartial trial by reason of the interest or prejudice of the Judge. Neither the defendant nor the City shall be entitled to file more than one (1) affidavit or disqualification in the same case. (Ord. No. 223 §2(223.230), 12-21-78)

SECTION 130.240: ABSENCE OF JUDGE, PROCEDURE

If a Municipal Judge be absent, sick or disqualified from acting, the Presiding Judge of the Circuit Court shall designate a special Municipal Judge until such absence or disqualification shall cease.

SECTION 130.250: CLERK OF THE MUNICIPAL COURT

The Municipal Court Clerk shall be appointed to his/her position by the Mayor with the approval of the Board of Aldermen for a term to be concurrent to the Municipal Judge's term of office. Nothing in this Section shall be construed to abrogate the authority as set forth under Section 130.070 hereinbefore set forth. The duties of said Clerk shall be as follows:

- B.1. To collect such fines for violations of such offenses as may be described, and the court costs thereof.
- B.2. To take oaths and affirmations.
- B.3. To accept signed complaints, and allow the same to be signed and sworn to or affirmed before him/her.

B.4. To sign and issue subpoenas requiring the attendance of witnesses and sign and issue subpoena duces tecum.

§ 130.250

Municipal Court

§ 130.260

- B.5. To accept the appearance, waiver of trial and plea of guilty, payment of fines and costs, as directed by the Municipal Judge; generally act as Violations Clerk of the Traffic Violations Bureau.
- B.6. To perform all other duties as provided for by ordinance, or the Rules of Practice and Procedure adopted by the Municipal Judge and by the Missouri Rules of Practice and Procedure in Municipal and Traffic Courts and by Statutes.
- B.7. To maintain, properly certified by the City Clerk, a complete set of the ordinances of the City, which shall constitute prima facie evidence of such ordinance before the Court. Further, to maintain a similar certified copy on file with the Clerk serving the Circuit Court of the County.
- B.8. To perform all other duties as may be required by law. Ord. No. 223 §2(223.250), 12-21-78)

SECTION 130.260: COURT COSTS

In addition to any fine that may be imposed by the Municipal Judge there shall be assessed as costs in all cases the following:

- .1. Costs of court in the amount of twelve dollars (\$12.00).
- .2. *Police Officers Training.*
 - .2.a. The official responsible for collecting costs and fines may assess as Court costs up to three dollars (\$3.00) for each violation of the general criminal laws of the State, including infractions, or violations of the ordinances of the City of Gerald, provided that no such fee shall be collected for violations of non-moving traffic violations and no such fee shall be collected in any proceeding in any Court when the proceeding or defendant has been dismissed by the Court.
 - .2.b. Two dollars (\$2.00) of such fee collected shall be transmitted monthly to the City Clerk of Gerald to be used locally for training Law Enforcement Officers. One dollar (\$1.00) of such fees collected shall be deposited into the Peace Officers Standards and Training Commission Fund to be used Statewide for training Law Enforcement Officers. The checks should be payable to the "Treasurer, State of Missouri". Address and mail check on or before the fifteenth (15th) of each month to:

Budget Director
Department of Public Safety
Post Office Box 749
Jefferson City, Missouri 65102
- .3. Crime Victims' Compensation Fund, seven dollars fifty cents (\$7.50); except that no such fee shall be collected for any non-moving traffic violations, except violations of weight limit and safety laws, and no such fee shall be collected in any proceeding in any Court when the proceeding or the defendant has been dismissed by the Court or when costs are to be paid by the State, County or municipality on behalf of an indigent defendant.

- .4. Other costs, such as those for the issuance of a warrant, summons, or commitment, as provided before the Associate Circuit Judge in criminal prosecutions.

- .5. Actual costs assessed against the City by the County Sheriff for mileage, for apprehension or confinement in the County Jail.
- .6. Mileage, in the same amount as provided to the Sheriff in criminal violations, for each mile and fraction thereof, the officer must travel (both directions) in order to serve any warrant, commitment or order of this Court.
- .7. *Alcohol- and drug-related traffic offenses.* In addition to any other penalties and costs provided by law or ordinance, the Court may order any person convicted of an alcohol- or drug-related traffic offense or amended alcohol- or drug-related traffic offense to reimburse the City for the costs associated with the arrest of such person. Such costs shall include the reasonable cost of making the arrest, including the cost of any chemical test made 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. A schedule of such costs shall be established by the Gerald Police Department and filed with the Clerk of the Municipal Court, and the Court may impose costs in accordance with the schedule; provided, the Court may order the costs reduced in a case if the Court determines the costs are excessive.
- .8. Any person who is convicted of or pleads guilty to an intoxication-related traffic offense, as defined in Section 577.023, RSMo., shall be assessed as costs a fee in the amount of five dollars (\$5.00). Such fee shall be collected by the Clerk of the Court and paid at least monthly to the Director of Revenue and placed to the credit of the Independent Living Center Fund. (Ord. No. 223 §2(223.260), 12-21-78; Ord. No. 395 §§1–2, 3-9-95; Ord. No. 501, 10-11-01)

SECTION 130.270: COURT COSTS—ASSESSED AGAINST PROSECUTING WITNESS

The costs of any action may be assessed against the prosecuting witness and judgement 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. (Ord. No. 223 §2(223.270), 12-21-78)

SECTION 130.280: INSTALLMENT PAYMENT OF FINE

When a fine is assessed for violating an ordinance, it shall be within the discretion of the Judge assessing the fine to provide for the payment of a fine on an installation basis under such terms and conditions as he/she may deem appropriate. (Ord. No. 223 §2(223.280), 12-21-78)

CHAPTER 135: TAXATION AND FINANCE

ARTICLE I. FISCAL YEAR

SECTION 135.010: FISCAL YEAR ESTABLISHED

The fiscal year for the City of Gerald shall begin January first (1st) of each year.

ARTICLE II. BUDGET

SECTION 135.020: BUDGET REQUIRED

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.

SECTION 135.030: BUDGET CONTENTS

The annual budget shall present a complete financial plan for the next fiscal year. The following shall be included in the budget:

- .1. A budget message to describe the important features of the budget and to point out any major changes from the previous year.
- .2. An estimate of revenues which are expected to be received during the next year from all sources, plus a comparative statement of the revenues for the previous two (2) budget years. These comparisons shall be shown by year, fund, and source.
- .3. An estimate of the expenditures that are proposed to be spent during the fiscal year, plus a comparative statement of actual expenditures for the previous two (2) years. These comparisons should be shown by year, fund, activity and object.
- .4. The amount of money required to pay any interest, amortization, or redemption charges which the municipality will owe during the budget year.
- .5. A general summary of the total proposed budget.

SECTION 135.040: BUDGET OFFICER

The City Clerk shall be the Budget Officer for the City. It is the responsibility of the Budget Officer to prepare the budget after reviewing expenditure requests and revenue estimates with other City Officers. The Budget Officer shall submit the completed budget and supporting schedules and exhibits to the Mayor, who shall present the same to the Board of Aldermen.

**SECTION 135.050: 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.

ARTICLE III. LEVY OF TAXES

SECTION 135.060: BOARD OF ALDERMEN—POWER TO LEVY AND COLLECT TAXES

The Board of Aldermen shall have power to levy, collect annually taxes upon all real estate and personal property, and all other taxable property, within the corporate limits of said City, in addition to other taxes, and in sufficient amount for the purpose of providing general revenue to defray the operating expenses of the City Government, as well as to pay the interest and principal, as it may become due, of any bonded indebtedness outstanding against the City; such taxes shall be collected in the manner and time as hereinafter prescribed.

SECTION 135.070: ASSESSMENT—METHOD OF

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

CHAPTER 140: CITY SALES TAX

SECTION 140.010: IMPOSITION OF CITY SALES TAX

- A. A sales tax at the rate of one per cent (1%) on the receipts from the sale at retail of all tangible personal property, and taxable services at retail within the City of Gerald is hereby levied and imposed upon all persons selling or furnishing tangible personal property or rendering taxable services for the privilege of engaging in the business of selling tangible personal property or rendering taxable services at retail in the City of Gerald.
- B. The tax provided for in this Section is imposed to the extent and in the manner provided in Sections 144.010 to 144.525, RSMo., and the rules and regulations of the Director of Revenue of the State of Missouri issues pursuant thereto.
- C. All revenues collected and received by the City of Gerald from the tax imposed by this Section shall be deposited in the City Treasury to the credit of the General Revenue Fund.
(Ord. No. 155 §§II–IV, 2-5-71)

SECTION 140.020: IMPOSITION OF CITY SALES TAX FOR TRANSPORTATION

Pursuant to the authority granted by and subject to the provisions of Sections 94.700 to 94.755, RSMo., a tax for transportation purposes as defined in Section 94.700, RSMo., 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 144.525, RSMo., and the rules and regulations of the Director of Revenue issued pursuant thereto. The rate of the tax shall be one-half of one percent (.5%) on the receipts from the sale at retail of all tangible personal property or taxable services at retail within Gerald, Missouri, if such property and taxable services are subject to taxation by the State of Missouri under the provisions of Sections 144.010 to 144.525, RSMo. The tax shall become effective as provided in Section 94.705, RSMo., and shall be collected pursuant to the provisions of Sections 94.700 to 94.755, RSMo.
(Ord. No. 323 §1, 9-13-90; Ord. No. 407 §1, 8-10-95)

SECTION 140.030: CITY SALES TAX ON UTILITIES

- A. The Municipal Sales Tax on all sales of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil...used for non-business, non-commercial or non-industrial purposes heretofore imposed within the corporate limits of this Municipality is hereby reimposed.
- B. The rate of taxation shall be, as heretofore, one percent (1%). (Ord. No. 230 §§1–2, 7-19-79)

SECTION 140.040: OPT OUT OF STATE IMPOSED SALES TAX HOLIDAY

- A. The City of Gerald hereby determines that it will prohibit the provisions of Section 144.049, RSMo., 2005, from exempting sales of certain clothing, personal computers, certain computer software and

school supplies that occur within the boundaries of said City beginning at 12:01 A.M. on the first (1st) Friday in August and ending at Midnight on the Sunday following from local sales taxes.

§ 140.040
140.040

Gerald City Code

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- B. The City Clerk is hereby directed to send written notice to the State of Missouri Department of Revenue as soon as possible, but no later than June 15, 2006, of the decision to opt out of the "sales tax holiday" by forwarding a cover letter and certified copy of this Section. (Ord. No. 592 §§1-2, 7-13-06)

