



Bill No. 5031

Ordinance No. _____

INTRODUCED BY

ALDERMEN FINLEY, JUDD, HAUG, GRAY, FLEMING, WEAVER, SIEGEL, LEHMKUHL

AN ORDINANCE AMENDING SECTION 2-294 OF THE MUNICIPAL CODE OF THE CITY OF BALLWIN REGARDING PUBLIC RECORDS AND VOTES.

WHEREAS, the Revised Statutes of Missouri have been amended to include additional categories of records which may be closed pursuant to the Missouri Sunshine Law, particularly records pertaining to juveniles, reservations at parks, endangered species, public safety information, security systems, and reports to the state auditor; and

WHEREAS, the Board of Aldermen finds that amending the Municipal Code as provided herein to conform to such amendments is in the public interest.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BALLWIN, ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:

Section 1: Chapter 2, Article V, Section 2-294 of the Municipal Code of the City of Ballwin is hereby repealed, and a new Section 2-294 is hereby adopted which shall read as follows:

CHAPTER 2 - ADMINISTRATION

ARTICLE V. – PUBLIC MEETINGS, RECORDS AND VOTES

SEC. 2-294. - CLOSED MEETINGS AND CLOSED RECORDS AUTHORIZED WHEN, EXCEPTIONS.

- (a) All meetings, records and votes are open to the public. However, 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, 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 government 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 moneys paid by, or on behalf of, the public governmental body shall be disclosed; provided, however, in matters involving the exercise of the power of eminent domain, the vote shall be announced or become public immediately following the action on the motion to authorize institution of such a legal action. Legal work product shall be considered a closed record;

- (2) Leasing, purchase or sale of real estate by a public governmental body where public knowledge of the transaction might adversely affect the legal consideration therefor. However, any minutes, 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 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 72 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) Non-judicial 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 18 years and by the parents, guardian or other custodian and the student if the student is over the age of 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, and the names of private sources donating or contributing money to the salary of a chancellor or president at all public colleges and universities in the state of Missouri and the amount of money contributed by the source;
- (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;
- (16) Records relating to municipal hotlines established for the reporting of abuse and wrongdoing;
- (17) Records relating to reports of allegations of improper governmental activities under Section 29.221 RSMo.;

- (18) 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 section;
- (19)
- (a) Security measures, global positioning system (GPS) data, investigative information, or investigative or surveillance techniques of any public agency responsible for law enforcement or public safety that, if disclosed, has the potential to endanger the health or safety of an individual or the public.
 - (b) Any information or data provided to a tip line for the purpose of safety or security at an educational institution that, if disclosed, has the potential to endanger the health or safety of an individual or the public.
 - (c) Any information contained in any suspicious activity report provided to law enforcement that, if disclosed, has the potential to endanger the health or safety of an individual or the public.
 - (d) Operational guidelines, policies and specific response plans 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 has the potential to endanger individual or public safety or health. Financial records related to the procurement of or expenditures relating to operational guidelines, policies or plans purchased with public funds shall be open. 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 nondisclosure outweighs the public interest in disclosure of the records;
- (20) 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 nonpublic 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 nondisclosure outweighs the public interest in disclosure of the records;
- (c) Records that are voluntarily submitted by a nonpublic entity shall be reviewed by the receiving agency within 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 nonpublic governmental body or destroyed;
- (21) The portion of a record that identifies security systems or access codes or authorization codes for security systems of real property;
- (22) 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 moneys paid by, or on behalf of, a public governmental body for such computer, computer system, computer network, or telecommunications network shall be open;
- (23) 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;
- (24) Records submitted by an individual, corporation, or other business entity to a public institution of higher education in connection with a proposal to license intellectual property or perform sponsored research and which contains sales projections or other business plan information the disclosure of which may endanger the competitiveness of a business;
- (25) Records relating to foster home or kinship placements of children in foster care under Section 210.498 RSMo.;

- (26) Individually identifiable customer usage and billing records for customers of a municipally owned utility, unless the records are requested by the customer or authorized for release by the customer, except that a municipally owned utility shall make available to the public the customer's name, billing address, location of service, and dates of service provided for any commercial service account;
 - (27) Any portion of a record that contains individually identifiable information of a minor under eighteen years of age held by a public governmental body, if such public governmental body is a city, town, village, or park board except when such records are requested by the division of labor standards within the department of labor and industrial relations for the purpose of enforcing Chapter 294 RSMo.;
 - (28) Individually identifiable customer information for visitors who make a camping, lodging, or shelter reservation for a county park, municipal park, or Missouri state park or state historic site unless the records are requested by the visitor or authorized for release by the visitor, and except that this exemption shall not apply to the municipality of residence and the zip code of residence of the visitor; and
 - (29) Records to protect the specific location of a plant or animal species considered endangered, threatened, critically imperiled, imperiled, or vulnerable when the known location may cause the species to be at an increased risk of peril.
- (b) All records that may be closed hereby are deemed closed records unless the governmental body votes to make them public. Before closing a meeting to the public, a majority of a quorum of the governmental body must vote to do so in a public vote. The vote of each member of the governmental body on the question of closing the meeting or vote and the reason for closing the meeting by reference to a specific exception shall be announced at a public meeting and entered into the minutes.
 - (c) The governmental body shall give notice of the time, date and place of a closed meeting and the reason for holding it by reference to a specific exception. The notice shall be the same as in subsection (d) below. No other business may be discussed in a closed meeting that does not directly relate to the specific reason announced to close the meeting to the public. Public governmental bodies holding a closed meeting must close only an existing portion of the meeting facility necessary to house the members of the public governmental body in the closed session, allowing members of the public to remain to attend any subsequent open session held by the public governmental body following the closed session.

- (d) The governmental body shall give notice of the time, date, place and tentative agenda of each meeting. The notice shall be placed on the appropriate bulletin board at city hall at least 24 hours, exclusive of weekends and holidays, prior to the meeting. If an emergency makes it impossible to give 24 hours' notice, the reason must be reflected in the minutes. Notice also shall be given to any representative of the news media who requests notice of a particular meeting.
- (e) Each meeting shall be held at a place reasonably accessible to the public, and at a time reasonably convenient to the public, unless for good cause such a place or time is impossible or impractical. When it is necessary to hold a meeting on less than 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.
- (f) 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.
- (g) A public body shall allow for the recording by audiotape, videotape, or other electronic means of any open meeting. A public body 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 RSMo 610.021 shall be permitted without permission of the public body; any person who violates this provision shall be guilty of a class C misdemeanor.
- (h) 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 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 exceptions above.
- (i) The city administrator or his/her designee shall be the custodian of records and will be responsible for maintenance and control of all records. The custodian shall provide public access to all public records as soon as possible but no later than the third business day following the date the custodian receives the request. If additional delay is necessary, the custodian shall give an explanation for the delay and the date the record will be available for inspection. 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 business day following



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the date the request for the statement is received. The custodian shall charge ten cents per page, and the average hourly rate for clerical staff for the time required for copying, and the actual cost of research time. The custodian shall receive payment prior to duplicating copies. Fees for providing access to public records maintained on computer facilities, recording, tapes or disks, videotapes or films, pictures, maps, slides, graphics, illustrations or similar audio or visual items or devices, and for paper copies larger than nine by 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 costs of such programming. The custodian may designate deputy custodians in the following departments: Parks and recreation; Public works; Police department

Records check \$6.00

Section 2: This ordinance shall be in full force and effect from its passage and approval pursuant to law and shall remain in effect until amended or repealed by the Board of Aldermen.

PASSED this 22nd day of September, 2025.

MARK R. STALLMANN, MAYOR

APPROVED this 22nd day of September, 2025.

MARK R. STALLMANN, MAYOR

ATTEST: _____
ERIC STERMAN, CITY ADMINISTRATOR