

Memorandum Regarding Council Bill No. 2025-27: Proposing amendments to Chapter 2, Article V of the City Code Regarding Changes to the Missouri Sunshine Law.

Background:

The Missouri General Assembly has passed HB 145 & 59, which modifies provisions of the Missouri Sunshine Law. These changes will become effective on August 28, 2025. The attached Council Bill proposes amendments to Chapter 2, Article V of the Nixa City Code to ensure the City's regulations for public records requests align with the new state law.

Analysis:

If approved, this Council Bill would amend Sections 2-162 and 2-164 of the City Code, which govern the procedures for records requests and the associated fees. The key modifications are as follows:

- **Clarification of Requests:** The ordinance establishes a formal process for the custodian of records to seek clarification on a records request. A requestor will have 90 days to respond to such a clarification request (or 150 days if the estimated cost exceeds \$1,000.00), after which the request will be considered withdrawn.
- **Fee Payment:** The ordinance mandates the full pre-payment of estimated fees before the City begins researching or compiling records. It also establishes a process for reconciling the actual cost against the pre-paid estimate, providing for either a refund or an invoice for the remaining balance.
- **Withdrawal for Non-Payment:** The ordinance introduces a 90-day period for requestors to remit payment for fees (or 150 days if the total is over \$1,000.00). Failure to pay within the specified timeframe will result in the request being considered withdrawn.
- **Pending and Subsequent Requests:** The bill includes a provision for any requests that are pending on August 28, 2025, setting a deadline of January 1, 2026, for fee remittance. It also addresses subsequent, substantially similar requests from an individual whose prior request was withdrawn, requiring payment of the original outstanding fees before the new request is processed.

Recommendation:

These amendments are necessary to bring the Nixa City Code into compliance with state law. Therefore, staff recommends approval of this Council Bill.

MEMO SUBMITTED BY:

Nick Woodman | City Attorney

Attachments:

Council Bill No. 2025-27.

1 **AN ORDINANCE OF THE COUNCIL OF THE CITY OF NIXA AMENDING CHAPTER 2,**
2 **ARTICLE V, SECTIONS 2-162 AND 2-164 OF THE NIXA CITY CODE FOR THE**
3 **PURPOSE OF CODIFYING CHANGES TO THE MISSOURI SUNSHINE LAW.**
4

5 **WHEREAS** the City's regulations for providing records pursuant to the Missouri
6 Sunshine Law are found in Chapter 2, Article V of the Nixa City Code; and
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8 **WHEREAS** the Missouri General Assembly truly agreed and passed HB 145 & 59
9 during this year's regular session; and
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11 **WHEREAS** this bill modifies provisions of the Sunshine Law; and
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13 **WHEREAS** the governor has signed the bill into law and its provisions will become
14 effective on August 28, 2025; and
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16 **WHEREAS** certain provisions of Chapter 2, Article V of the Nixa City Code need
17 to be updated to reflect the changes to the Sunshine Law; and
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19 **WHEREAS** the City Council desires to modify the City Code as set forth herein.
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21 **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF**
22 **NIXA, AS FOLLOWS, THAT:**
23

24 **SECTION 1:** Chapter 2, Article V, Section 2-162 of the Nixa City Code is hereby
25 amended by repealing said Section in its entirety and adopting in lieu thereof a new
26 section, which said section shall read as follows (Explanation: Language in bold-face type
27 (e.g., **thus**) is language to be added. Language in bold-faced brackets (e.g., [~~thus~~]) is not
28 enacted and is intended to be omitted or deleted.):
29

30 Sec. 2-162. Records requests—How made.
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- 32 (a) All requests for city records shall be in writing and on forms approved and provided by
33 the custodian of records.
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35 (b) Oral requests, if received by the custodian of records, shall be immediately recorded
36 in written form to document the request.
37
38 (c) Request for records shall include sufficient information regarding the records
39 requested such that the custodian of records can reasonably identify what records are
40 sought by the requestor.
41
42 (d) The custodian of records is authorized to request or require any additional information
43 which is reasonably necessary to complete any records requests. **The custodian of**
44 **records may, at any point, request clarification from the requestor. For**
45 **clarification requests, the following shall apply:**
46

(1) The requestor shall have 90 days to respond to a clarification request from the date it was sent. If the estimated fees for the requested records are greater than \$1,000.00, this response period shall be 150 days.

(2) The custodian of records shall include notice of the applicable response period in all communications seeking clarification.

(3) If a response to a clarification request is not received by the custodian of records within the applicable response period, the records request shall be considered withdrawn.

SECTION 2: Chapter 2, Article V, Section 2-164 of the Nixa City Code is hereby amended by repealing said Section in its entirety and adopting in lieu thereof a new section, which said section shall read as follows (Explanation: Language in bold-face type (e.g., **thus**) is language to be added. Language in bold-faced brackets (e.g., **[thus]**) is not enacted and is intended to be omitted or deleted.):

Sec. 2-164. Fees for records requests.

(a) ***Applicable fees.*** The city shall require payment of any fees for providing records, including but not limited to search, research, and duplication time, prior to fulfilling the request. Fees for providing records shall be charged as set forth in RSMo 610.026, as amended. It is the policy of the city that fees for providing public records shall be charged to defray the costs associated with fulfilling such requests, ensuring that the burden of these costs does not fall disproportionately on the general taxpayer.

(b) ***Fee estimates and payment.*** The following provisions apply to fee estimates and the payment of fees:

(1) The custodian of records shall provide an estimate of the cost to the requestor for providing the requested records prior to researching or producing copies of the requested records.

(2) The custodian of records shall ~~[is authorized to]~~ require **[a]** payment of the estimated fee amount in full prior to researching or producing copies of the requested records. ~~[deposit be provided for any records request which, in the reasonable judgment of the custodian of records, will take more than one hour to research and compile. Said deposit shall be in the same amount as the estimated cost to fulfill and provide the requested records.]~~

(3) Upon completion of the request, a final reconciliation of actual fees incurred against fees paid in advance shall be conducted. If the actual fees incurred for fulfilling the request are less than the estimated fees paid in advance, the difference shall be refunded to the requestor. If the actual fees incurred for fulfilling the request exceed the estimated fees paid in advance, the city shall

notify the requestor of the additional fees due. The city shall require payment of these additional fees prior to the release of the records, and failure to remit such additional fees within the applicable payment period as defined in subsection (c) of this section shall result in the request being considered withdrawn. ~~[Such deposit shall be provided before the city begins researching the request. The deposit authorized by this subsection shall be returned to the requestor, minus any fees authorized by this section.]~~

(c) *Requests withdrawn due to non-payment of fees.*

(1) The requestor shall remit all fees requested by the city within 90 days of the date a request for payment of said fees was issued by the custodian of records. If the total requested fees are greater than \$1,000.00, this payment period shall be 150 days.

(2) The custodian of records shall include notice to the requestor in the communication requesting payment that failure to remit the fees within the applicable payment period shall result in the request being considered withdrawn.

(3) If a requestor fails to remit all fees requested by the city within the applicable payment period, the request for public records shall be considered withdrawn.

(4) Any request for records which is pending on August 28, 2025, shall be considered withdrawn if the requester fails to remit all fees by January 1, 2026.

(d) *Subsequent requests for similar records.* If a records request is considered withdrawn due to the requestor's failure to remit fees as set forth in subsection (c) of this section, or due to the requestor's failure to respond to a request for clarification as set forth in subsection (d) of section 2-162 of the Nixa City Code, and the same or a substantially similar request for records is made within six months of the expiration of the 90 day or 150 day withdrawal period, the custodian of records shall again request payment of the fees which were due for the original request prior to commencing research or fulfillment of the new request.

~~[(e)]~~ **(e) *Basis for fee calculation.*** Based on the scope and complexity of the request, the city shall produce copies of records using employees of the city that result in the lowest charge for search, research, and duplication time.

~~[(d)]~~ Before researching or producing copies of the requested records, the custodian of records shall provide an estimate of the cost to the requestor for providing the requested records.]

139 [(e)] (f) **Minimum fee not charged – when.** No fees shall be charged if the total amount
140 of all fees charged for the request [are] is less than \$10.00. **Additionally, no fees**
141 **shall be charged if, in the reasonable judgment of the custodian of records,**
142 **the time to research and compile requested records will take no more than**
143 **one hour.**
144

145 **SECTION 3:** The City Attorney, when codifying the provisions of this Ordinance, is
146 authorized to provide for different section numbers, subsection numbers, and different
147 internal citation references than those provided herein when such section numbers,
148 subsection numbers, or internal citation references are in error or are contrary to the intent
149 of this Ordinance.
150

151 **SECTION 4:** Savings Clause. Nothing in this Ordinance shall be construed to
152 affect any suit or proceeding now pending in any court or any rights acquired, or liability
153 incurred nor any cause or causes of action occurred or existing, under any act or
154 ordinance repealed hereby.
155

156 **SECTION 5:** Severability Clause. If any section, subsection, sentence, clause, or
157 phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect
158 the validity of the remaining portions of this Ordinance. The Council hereby declares that
159 it would have adopted the Ordinance and each section, subsection, sentence, clause, or
160 phrase thereof, irrespective of the fact that any one or more sections, subsections,
161 sentences, clauses, or phrases be declared invalid.
162

163 **SECTION 6:** This Ordinance shall be in full force and effect on **August 28, 2025**,
164 subject to the provisions of section 3.11(g) of the City Charter.
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166

167 **ADOPTED BY THE COUNCIL THIS 26th DAY OF August 2025.**
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169 ATTEST:
170

171 _____
172 PRESIDING OFFICER

171 _____
172 CITY CLERK

173
174 **APPROVED BY THE MAYOR THIS _____ DAY OF _____ 2025.**
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176 ATTEST:
177

178 _____
179 MAYOR

178 _____
179 CITY CLERK

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181 APPROVED AS TO FORM:
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183 _____
184 CITY ATTORNEY