

AN ORDINANCE AMENDING ORDINANCE NO. 4788, THE MUNICIPAL CODE OF THE CITY OF RICHMOND HEIGHTS, MISSOURI, REVISING CHAPTER 130, OPEN MEETINGS AND RECORDS, DELETING SECTION 130.060 IN ITS ENTIRETY AND ADDING NEW SECTION 130.060, PUBLIC ACCESS TO CERTAIN INFORMATION; AND ADDING NEW SECTION 130.095: CRIME SCENE PHOTOGRAPHS AND VIDEO RECORDINGS.

WHEREAS, Chapter 130 of the Municipal Code governs access to public records under the Missouri Sunshine Law; and

WHEREAS, changes in State law (2016 SB 732 and 765) require revisions to the City's ordinances.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF RICHMOND HEIGHTS, MISSOURI as follows:

SECTION 1. Ordinance No. 4788, the Municipal Code of the City of Richmond Heights, Missouri, Chapter 130 OPEN MEETINGS AND RECORDS is hereby amended by deleting Section 130.060 in its entirety and adding new Section 130.060 Public Access to Certain Information and adding new Section 130.095; Crime Scene Photographs and Video Recordings as follows:

DELETE: Section 130.060 Daily Log or Record Maintained by Police Department of Crimes, Accidents, or Complaints-Public Access to Certain Information.

ADD NEW:

A. As used in this policy, the following terms shall have these prescribed meanings:

Section 130.060. Public Access to Certain Information.

A. As used in this policy, the following terms shall have these prescribed meanings:

ARREST

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

ARREST REPORT

A record of a Law Enforcement Agency of an arrest and of any detention or confinement incident thereto together with the charge therefor.

INACTIVE

An investigation in which no further action will be taken by a Law Enforcement Agency or officer for any of the following reasons:

1. A decision by the Law Enforcement Agency not to pursue the case;
2. Expiration of the time to file criminal charges pursuant to the applicable statute of limitations, or ten (10) years after the commission of the offense; whichever date earliest occurs;
3. Finality of the convictions of all persons convicted on the basis of the information contained in the investigative report, by exhaustion of or expiration of all rights of appeal of such persons.

INCIDENT REPORT

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

INVESTIGATIVE REPORT

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

MOBILE VIDEO RECORDER

Any system or device that captures visual signals that is capable of being installed in a vehicle or being worn or carried by personnel of a law enforcement agency and that includes, at minimum, a camera and recording capabilities.

MOBILE VIDEO RECORDING

Any data captured by a mobile video recorder, including audio, video, and any metadata.

NONPUBLIC LOCATION

A place where a person would have a reasonable expectation of privacy including, but not limited to, a dwelling, school or medical facility.

B. The Police Department shall maintain records of all incidents reported to it, and investigations and arrests made by it. All incident reports and arrest reports shall be open records.

Notwithstanding any other provision of law other than the provisions of Subsections (4), (5) and (6) of Section 610.100, RSMo., or Section 320.083, RSMo., except as provided herein mobile video recordings and investigative reports are closed records until the investigation becomes

inactive. If any person is arrested and not charged with an offense against the law within thirty (30) days of the person's arrest, the arrest report shall thereafter be a closed record except that the disposition portion of the record may be accessed and except as provided in Section 610.120, RSMo.

C. Except as provided in subsections 3 and 5 of Section 610.100 RSMo., a mobile video recording that is recorded in a nonpublic location shall be a closed record, except that any person who is depicted in the recording or whose voice is in the recording, or their legal guardian or parent if such person is a minor, or a family member within the first degree of consanguinity if such person is deceased or incompetent, or an attorney or insurer for such person, may obtain a complete, unaltered, and unedited copy of the recording upon written request, once any related investigation has become inactive or as otherwise required by law. Any person who requests and receives such a mobile video recording shall be subject to the restrictions on display and disclosure set forth in subsection 8 of Section 610.100 RSMo.

D. Except as provided in Subsections (4), (5), (6) and (7) of Section 610.100, RSMo., if any portion of a record or document of a law enforcement officer or agency, other than an arrest report, which would otherwise be open, contains information that is reasonably likely to pose a clear and present danger to the safety of any victim, witness, undercover officer, or other person; or jeopardize a criminal investigation, including records which would disclose the identity of a source wishing to remain confidential or a suspect not in custody; or which would disclose techniques, procedures or guidelines for law enforcement investigations or prosecutions, that portion of the record shall be closed and shall be redacted from any record made available pursuant to Chapter 610, RSMo.

E. Any person, including a legal guardian or parent of such person if he or she is a minor, family member of such person within the first degree of consanguinity if such person is deceased or incompetent, attorney for a person, or insurer of a person involved in any incident or whose property is involved in an incident, may obtain any records closed pursuant to Section 610.100, RSMo., or Section 610.150, RSMo., for purposes of investigation of any civil claim or defense, as provided by Section 610.100.4, RSMo., and this policy. Any individual, legal guardian or parent of such person if he or she is a minor, his or her family member within the first degree of consanguinity if such individual is deceased or incompetent, his or her attorney or insurer, involved in an incident or whose property is involved in an incident, upon written request, may obtain a complete unaltered and unedited incident report concerning the incident, and may obtain access to other records closed by the Police Department pursuant to Section 610.100, RSMo. Within thirty (30) days of such request, the Department shall provide the requested material or file a motion with the Circuit Court of St. Louis County stating that the safety of the victim, witness or other individual cannot be reasonably ensured, or that a criminal investigation is likely to be jeopardized and thereafter comply with the final rulings of the courts thereon.

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

SECTION 2. Section 130.095 is added to the Municipal Code Chapter 130 to read as follows:

Section 130.095. Crime Scene Photographs and Video Recordings.

[1. Crime scene photographs and video recordings, including photographs and video recordings created or produced by a state or local agency or by a perpetrator or suspect at a crime scene, which depict or describe a deceased person in a state of dismemberment, decapitation, or similar mutilation including, without limitation, where the deceased person's genitalia are exposed, shall be considered closed records and shall not be subject to disclosure under the provisions of this chapter unless otherwise ordered by court or required by law; provided, however, that this section shall not prohibit disclosure of such material to the deceased's next of kin or to an individual who has secured a written release from the next of kin. It shall be the responsibility of the next of kin to show proof of the familial relationship. For purposes of such access, the deceased's next of kin shall be:

- (1) The spouse of the deceased if living;
- (2) If there is no living spouse of the deceased, an adult child of the deceased; or
- (3) If there is no living spouse or adult child, a parent of the deceased.

2. The provisions of this section shall not apply to disclosure of crime scene material to counsel representing a convicted defendant in a habeas corpus action, on a motion for new trial, or in a federal habeas corpus action under 28 U.S.C. Section 2254 or 2255 for the purpose of preparing to file or litigating such proceedings. Counsel may disclose such materials to his or her client and any expert or investigator assisting counsel in accordance with Section 610.205 RSMo. A request under this subsection shall clearly state that such request is being made for the purpose of preparing to file and litigate proceedings enumerated in this subsection.]

SECTION 3. It is hereby declared to be the intention of the City Council that each and every part, section and subsection of this Ordinance shall be separate and severable from each and every other part, section and subsection hereof and that the City Council intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. In the event that any part of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect.

SECTION 4. This ordinance shall be in full force and effect on the 31st day after its passage as provided by law.

PASSED and SIGNED this 19th day of September, 2016.

JIM THOMSON
MAYOR

ATTEST:

PATRICIA S. VILLMER
DEPUTY CITY CLERK

APPROVED AS TO FORM:

KENNETH J. HEINZ
CITY ATTORNEY

First reading: September 6, 2016
Second reading: September 19, 2016