

AN ORDINANCE ADOPTING OPEN AND CLOSED RECORD PROVISIONS FOR THE VILLAGE OF CENTERTOWN, MISSOURI.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF CENTERTOWN, MISSOURI, AS FOLLOWS:

Section 1: The Village Code of the Village of Centertown is hereby amended to add a new section ____ as follows:

Records Open to the Public and Exceptions

1. Any citizen of the state shall, at all times, have access to and be permitted to take copies of any or all the records, books, and papers of the Village except as described below or as otherwise prescribed by law or by action of the Village.
2. The Village Clerk shall be the Custodian of Records of the Village and requests for records shall be directed to the Clerk. The Clerk shall respond to requests for records as soon as possible but in no event later than the third business day following the date the request was received by the Village Clerk.
3. The Village shall make available for inspection and copying by the public the Village's public records. No person shall remove original public records from the office of the Village or its custodian without written permission of the designated custodian. The Village shall not grant to any person or entity, whether by contract, license or otherwise, the exclusive right to access and disseminate any public record unless the granting of such right is necessary to facilitate coordination with, or uniformity among, industry regulators having similar authority.
4. Each request for access to a public records shall be acted upon as soon as possible, but in no event later than the end of the third business day following the date the request is received by the custodian of records of the Village. 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 days for reasonable cause.
5. 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 the date that the request for the statement is received.

6. Designation of Closed Records

The following records and records relating to the following subjects, whether currently existing or hereafter created or received, are hereby designated as closed records.

- a. Legal actions, causes of action or litigation and any confidential or privileged communications with representatives and attorneys. However, any minutes, vote or settlement agreement relating to legal actions, causes of action or litigation involving the Village of Centertown, Missouri, 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, however, the amount of any moneys paid for settlement 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.
- b. Leasing, purchase or sale of real estate 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 shall be made public upon execution of the lease, purchase or sale of the real estate.
- c. Hiring, firing, disciplining or promoting of particular employees when personal information about the employee is discussed or recorded. However, any vote on a final decision, when taken, to hire, fire, promote or discipline an employee shall be made available with a record of how each member voted to the public within seventy-two 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 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.

- d. The state militia or national guard or any part thereof.
- e. Non-judicial mental or physical health proceedings involving identifiable persons, including medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment.
- f. Testing and examination materials, before the test or examination is given or, if it is to be given again, before so given again.
- g. Welfare cases of identifiable individuals.
- h. Preparation, including any discussions or work product, on behalf of the Village or its representatives for negotiations with employee groups.
- i. Software codes for electronic data processing and documentation thereof.
- j. Specifications for competitive bidding, until either the specifications are officially approved by the Village or the specifications are published for bid.
- k. 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.
- l. 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 once they are employed as such, and the names of private sources donating or contributing money to the salary of the Chairman and the amount of money contributed by the source.
- m. Records which are protected from disclosure by law.
- n. Meetings and public records relating to scientific and technological innovations in which the owner has a proprietary interest.
- o. Records relating to municipal hotlines established for the reporting of abuse and wrongdoing.

- p. Confidential or privileged communications with auditors, including all auditor work product; however, all final audit reports issued by the auditor are to be considered open records pursuant to Chapter 610 RSMo.
- q. Operational guidelines and policies developed, adopted, or maintained by any public agency responsible for law enforcement, public safety, first response, or public health for use in responding to or preventing any critical incident which is or appears to be terrorist in nature and which has the potential to endanger individual or public safety or health. Nothing in this exception shall be deemed to close information regarding expenditures, purchases, or contracts made by an agency in implementing these guidelines or policies. When seeking to close information pursuant to this exception, it shall be affirmatively stated in writing that disclosure would impair the ability to protect the safety or health of persons, and shall in the same writing state that the public interest in non-disclosure outweighs the public interest in disclosure of the records. If the authority to close the records referred to above in this subsection sunsets and no replacement authorizing such records to be closed is adopted by the state of Missouri, this subsection shall thereafter lapse and be of no force or effect.
- r. Existing or proposed security systems and structural plans of real property owned or leased by a public governmental body, and information that is voluntarily submitted by a non-public entity owning or operating an infrastructure to any public governmental body for use by that body to devise plans for protection of that infrastructure, the public disclosure of which would threaten public safety.
- i. Records related to the procurement of or expenditures relating to security systems purchased with public funds shall be open.
 - ii. When seeking to close specific information pursuant to this exception, the Village shall affirmatively state in writing that disclosure would impair the Village's ability to protect the security or safety of persons or real property, and shall in the same writing state that the public interest in non-disclosure outweighs the public interest in disclosure of the records.
 - iii. Records that are voluntarily submitted by a non-public entity shall be reviewed by the receiving agency within ninety 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 or destroyed.

iv. If the authority to close the records referred to above in this subsection sunsets and no replacement authorizing such records to be closed is adopted by the state of Missouri, this subsection shall thereafter lapse and be of no force or effect.

s. 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.

t. 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.

u. Investigative reports of the Department of Public Safety or other law enforcement agencies are hereby designated as closed records pursuant to section 610.100.2 RSMo. That section provides: “. . . investigative reports of all law enforcement agencies are closed records until the investigation becomes inactive.” Section 610.100.1(3) defines inactive as (a) when the agency has decided not to pursue the case, (b) the statute of limitations has expired or (c) all resulting convictions have become final. Although investigation reports are closed records, arrest and incident reports are open records.

- v. Records of, regarding or submitted to the Village during or in connection with a lawfully closed meeting or vote.
7. The purpose of this rule is to close all records that may legally be closed until such time as they are made open by majority vote of the Village or by written decision of the Chairman. Closed records shall not become open as a result of the negligent or unauthorized use or disclosure of those records.
8. Closed records may be made available to individuals with a legitimate need to know as necessary for the accomplishment of Village business and such availability and use shall not open the records generally. The Village's attorney may authorize disclosure of closed records when such disclosure may avoid litigation or settle disputes or as required by a court or in the process of litigation. Such disclosure shall not open the records generally. Individuals receiving or using closed records owe a duty to the Village to maintain the confidentiality of those records.
9. This rule shall be construed to be consistent with applicable law and guided by the concept that all records allowed to be closed are and shall be closed until opened by majority vote of the Village or by written decision of the Chairman.
10. If the laws governing public access to records are amended from time to time to limit the ability of the Village to lawfully close records, this rule shall be automatically amended to make it consistent with such newly adopted law. If a change in the applicable law allows the Village to close a new category of records, this rule shall be automatically amended to designate such records as closed.

(RSMo. 2007 Supp., Chapter 610 and RSMo. 2000, §172.180)

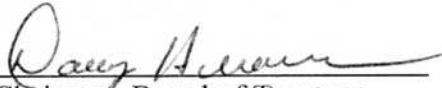
Section 2: Any provisions of the Code of the Village of Centertown which are inconsistent with this ordinance are hereby repealed.

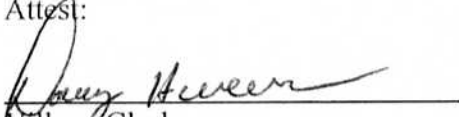
Section 3: This ordinance shall be in full force and effect upon final passage and approval.

FIRST READING HELD: July 31, 2007.

SECOND READING HELD AND FINAL PASSAGE ON THIS 31ST DAY OF July, 2007 BY THE FOLLOWING VOTE:

	<u>Aye</u>	<u>Nay</u>
Kenneth Farris	<u>X</u>	_____
Doug Heineman	<u>X</u>	_____
Curtis B. Holzer	<u>X</u>	_____
William McClure	<u>X</u>	_____
SCOH call	<u>X</u>	_____


Chairman, Board of Trustees

Attest:

Village Clerk