

**Happy Holidays From CVR** – The attorneys and staff of Cunningham, Vogel & Rost, P.C. wish everyone a safe and happy Holiday Season!

**Counties and other Political Subdivisions Subject to City Police Powers** – In [Engelage v. City of Warrenton, 378 S.W.3d 410 \(Mo.App. 2012\)](#) the Missouri Court of Appeals held that Warren County was required to comply with the City's Building Code and pay applicable building permit fees when constructing a county building inside the City. The Court of Appeals rejected the County's claim of exemption as "overreaching" because a city's general police powers, like building construction regulations, are not the same as more limited zoning powers. Noting that "police powers of a city generally extend to all within its boundaries, including other political subdivisions," the court ruled that "the legislature here vested the city, and the city alone, with authority to protect public safety." The court concluded, "[t]o hold otherwise 'would be to create little separate and independent kingdoms within the city where the sovereignty given to it by the state could not operate.'" The decision clarifies that a county, like schools and other political subdivisions, are obligated to comply with City Building Codes and apply for and pay building permit fees. Attorneys from CVR represented Warrenton in this case and would like to thank the MML for its support of the City's position before the Court of Appeals.

**Cities Must Collectively Bargain with Police** – The Missouri Supreme Court ruled on Nov. 20, 2012 ([Eastern Mo. Coalition of Police \("FOP"\) v. City of Chesterfield, No. SC91736](#) and [FOP v. City of University City, No SC91737](#)) that the right to organize and bargain collectively, contained within article I, section 29 of the Missouri Constitution, imposes an affirmative duty on public employers to collectively bargain (i.e., "meet, confer, and discuss"), regardless if the employee's profession is exempt from Missouri's collective bargaining statute §105.500 *et seq.* The Court further held, however, that the trial courts' order requiring cities to implement a procedure with certain specified criteria for statutorily exempt employees (i.e. law enforcement employees) was "too broad" because "cities may create their own procedures when necessary, so long as they satisfy the constitutional requirements." As a result of this ruling, municipalities should consider:

- 1) Does your municipality have a collective bargaining process, and if not, it may wish to consider adopting one; and
- 2) Does your municipality have a process that enables you to know *who* you must meet and confer with as the union representative, and if not, similarly, you may wish to consider such a procedure.

**Manchester Funeral Protest Ordinance Upheld** – On rehearing by the entire Eighth Circuit Court of Appeals, in [Phelps-Roper v. City of Manchester, Mo., 697 F.3d 678 \(8th Cir. En Banc 2012\)](#), the Court overturned previous decisions by both the trial court and a three-judge appellate panel by upholding the constitutionality of the City of Manchester's ordinance barring picketing and other protest activities within 300 feet of any funeral site within one hour before until one hour after the funeral service.

The Court found that Manchester's ordinance was a content-neutral time, place, and manner regulation that was narrowly tailored to serve a significant government interest and allowed for ample alternative channels for communication. The Eighth Circuit found that mourners at funeral ceremonies had no ready means of avoiding the unwanted speech because they must be in a certain place at a certain time to participate in the funeral and are therefore unable to avoid unwelcome speech at that place and time. Therefore, the Court held while the protesters have a right to express their opinions on a matter of public concern, the mourners have a right to protect the dignity of the service and the privacy of the family members as they memorialize and grieve for their dead. The Court noted that the communal importance of funerals and the need to protect mourners was recognized by Congress with the recent passage of the [Honoring America's Veterans and Caring for Camp Lejeune Families Act of 2012](#), which places limitations on demonstrations near funerals of Armed Forces veterans.

**EEOC Targets Pregnancy Discrimination** – By recently filing lawsuits against several employers, the EEOC has shown that it is committed to its [announced plan to redress illegal discrimination against women who are pregnant](#). The Department of Justice ("DOJ") which enforces Title VII as applied to state and local governments has also been active in filing pregnancy discrimination lawsuits. Before your City becomes a target of an EEOC or MCHR charge of discrimination or DOJ investigation, take the time to review your City's policies and practices with your City Attorney.

**Presentations by CVR Attorneys** – The following upcoming and recent educational presentations and resources from CVR attorneys are available for your review:

- [UPCOMING - Development Finance \(APA/UMSL Chancellor's Certificate Program in Planning and Zoning\) – Kristen Erickson](#)
- [Planning + Zoning: What's the Difference and Why Should I Care?](#) (Missouri Association of Counties Annual Conference - [Paul Rost](#))
- [Legal Aspects of Planning and Zoning](#) (APA/UMSL Chancellor's Certificate Program in Planning and Zoning) – [Dan Vogel](#)
- [Urban Development, Zoning and Planning, Subdivisions, & Annexation](#) (Missouri Bar CLE Guidebook Practice Series – [Tom Cunningham](#) and [Dan Vogel](#))
- [The Sunshine Law - Chapter 610: Governmental Bodies & Records Law](#) (2012 Missouri Municipal League Annual Conference – [Paul Rost](#))

**Feedback** – Please let us know how we are doing. If you have suggestions for improving these Municipal Issue Reports, please let us know at the contacts below.

If you need further assistance on any of these matters, please consult your City Attorney or Legal Department for particularized guidance or contact us at:

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## Upcoming Dates & Deadlines for Missouri Municipalities\*

**Dec. 11** - Opening of candidate filing period for Municipal General Election

**Jan. 1** - Furnish State Auditor report of bonds and coupons retired since the previous report.

**Jan. 15** - End of candidate filing period for Municipal General Election

**Jan. 22** - Closing for receiving certification of election forms for the General Municipal Election.

**Jan. 31** - File report with DED on previous year's revenue bond and general obligation bond issuances for Industrial Development Projects.

**Jan. 31** - Send W-2s and 1099s to IRS; distribute to employees and services providers.

**Feb. 28** - Report to DED of businesses that have relocated within past year to TIF area or Downtown and Rural Economic Stimulus Act development area.

**Mar. 5** - Notify DOR of ordinance opting-in to "Show Me Green" Appliance Sales Tax Holiday (at option of City).

\*This list is not exhaustive. For the complete **Calendar of Procedural Deadlines for Missouri Municipalities**, click below:

[Jan. 1–Dec. 31 Fiscal Year](#)

[July 1–June 30 Fiscal Year](#)

Also see CVR's

[Annual Requirements for Missouri Municipal Special Purpose Entities](#)

## Municipal Links

[Missouri Municipal League](#)

[St. Louis County Municipal League](#)

[Mid-America Regional Council \(KC Area\)](#)

[East-West Gateway Council of Governments](#)

For more, visit CVR's [Resources Page](#)