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CHAPTER 30: GOVERNMENTAL ORGANIZATION

Section

30.01 Five branches of government established

§ 30.01 FIVE BRANCHES OF GOVERNMENT ESTABLISHED.

The government of the city shall consist of five branches, those being:

(A) Executive; (I.C. 36-4-5)

(B) Legislative; (I.C. 36-4-6)

(C) Fiscal; (I.C. 36-4-10)

(D) Judicial; and

(E) Statutory boards and commissions.

(* '66 Code, § 2-1-2-1) (Ord. 1571, passed 8-1-83)

CHAPTER 31: CITY OFFICIALS

Section

- 31.01 Elective officers
- 31.02 Mayor
- 31.03 Clerk-Treasurer
- 31.04 Compensation
- 31.05 Travel expense reimbursement

§ 31.01 ELECTIVE OFFICERS.

(A) The elective officers of the city shall be:

- (1) Mayor;
- (2) Clerk-Treasurer;
- (3) Common Council members; and
- (4) Judge.

(B) Officers shall be elected in accordance with the provisions of the state election law.
(‘66 Code, § 2-1-1-1)

(C) The executive and administrative authority of the city shall be vested in the Mayor, Clerk-Treasurer and the departments as are provided by law, and in other officers as may be appointed by virtue of state law. The Common Council may, by ordinance, provide that committees of the Council shall exercise executive functions, subject to the discretion of the Council, when not in conflict with state law. (‘66 Code, § 2-1-1-2)
(Ord. 1172, passed 10-3-66)

§ 31.02 MAYOR.

The Mayor is the city executive officer and head of the executive branch. He or she shall faithfully perform the duties and responsibilities contained in I.C. 36-4-5 and other statutes of the state. (‘66 Code, § 2-1-1-2) (Ord. 1571, passed 8-1-83)

§ 31.03 CLERK-TREASURER.

(A) The Clerk-Treasurer shall perform all duties now provided by law for the office; provided that, the County Treasurer shall collect all civil and school taxes and make settlement for the same. (Ord. 1172, passed 10-3-66)

(B) The Clerk-Treasurer is the fiscal officer of the city and the head of the fiscal branch. He or she shall perform the duties assigned by I.C. 36-4-10 and other duties as the Common Council may, by ordinance, require.

(C) The Clerk-Treasurer is hereby authorized, pursuant to I.C. 36-4-11-4, to appoint one Deputy Clerk-Treasurer to be paid from funds appropriated for the office of the Clerk-Treasurer and in the further discretion of the Common Council, from city utility funds. The deputy shall work under the exclusive direction of the Clerk-Treasurer and serve at the pleasure of the Clerk-Treasurer.

(D) The Clerk-Treasurer shall furnish space within his or her office for the administration and records of the city's utilities. The various utility clerks needed to manage the bookkeeping and administrative requirements of the utilities shall be appointed and compensated by the board having control of the utility the clerk serves. The utility clerks serve at the pleasure of the board which appointed them. The Clerk-Treasurer shall be compensated for services he or she renders to the city's utilities, and shall have the power to supervise the utility personnel in his or her office, subject to the approval of the governing boards of the various utilities.

('66 Code, § 2-1-1-3) (Ord. 1571, passed 8-1-83; Am. Ord. 1585, passed 4-2-84)

§ 31.04 COMPENSATION.

(A) The annual salaries of the Mayor, the Clerk-Treasurer, City Judge and each member of the Common Council shall be payable from the General Fund of the city. ('66 Code, § 2-6-1-1)

(B) The Mayor, Clerk-Treasurer, Deputy Clerk-Treasurer, City Engineer and City Attorney shall each receive from the funds of the sewage disposal plant and waterworks, payable in equal portions from each plant, unless otherwise duly ordered by the Board of Public Works and Safety, in which event the proportions fixed by the Board shall be controlling. The amount of compensation shall be as time to time determined by the Common Council. The compensation shall be in addition to the annual salary otherwise provided. ('66 Code, § 2-6-1-2) (Am. Ord. 1585, passed 4-2-84)
(Ord. 1172, passed 10-3-66)

§ 31.05 TRAVEL EXPENSE REIMBURSEMENT.

Beginning January 1, 2006, necessary travel shall be paid by the Clerk-Treasurer of the city upon properly submitted claims for travel at the rate of \$.40 per mile and there shall not be additional reimbursement for parking fees over and above the mileage allowance.

('66 Code, § 2-6-1-4) (Ord. 1546, passed - -82; Am. Ord. 1546, passed 4-4-94; Am. Ord. 2033, passed 12-5-05)

CHAPTER 32: COMMON COUNCIL

Section

General Provisions

- 32.01 Authority of Council
- 32.02 Membership
- 32.03 Clerk of Council
- 32.04 Meetings
- 32.05 Ordinances and resolutions
- 32.06 Decisions of presiding officer
- 32.07 Abstention

GENERAL PROVISIONS

32.01 AUTHORITY OF COUNCIL.

The legislative branch of the city is the Common Council. The Council shall have exclusive authority to adopt ordinances and appropriate tax monies received by the city, and to perform other necessary and desirable legislative functions.

('66 Code, § 2-2-1-1) (Ord. 1571, passed 8-1-83)

§ 32.02 MEMBERSHIP.

The Council shall be composed of seven members, five of whom are elected from districts and two of whom are elected at large. The districts are located in the county as follows:

- (A) Councilman District One shall be composed of Precincts 1 and 2 of Pipe Creek Township.
- (B) Councilman District Two shall be composed of Precincts 3 and 4 of Pipe Creek Township.
- (C) Councilman District Three shall be composed of Precincts 5 and 6 of Pipe Creek Township.
- (D) Councilman District Four shall be composed of Precincts 7 and 8 of Pipe Creek Township.

(E) Councilman District Five shall be composed of Precincts 9 and 10 of Pipe Creek Township.

(F) Councilman at large districts shall consist of the entire city.

(G) Redistricting of councilman districts shall be done at least every ten years after 1982 in accordance with I.C. 36-4-6-4.

('66 Code, § 2-2-1-3) (Ord. 1571, passed 8-1-83)

§ 32.03 CLERK OF COUNCIL.

The Clerk-Treasurer shall be the Council Clerk and shall perform the duties prescribed by I.C. 36-4-6-9 and others as the Council may direct.

('66 Code, § 2-2-1-2) (Ord. 1571, passed 8-1-83)

§ 32.04 MEETINGS.

(A) The regular meeting date and time for the Council shall be at 7:00 p.m., on the first Monday of each month, unless otherwise specified.

(B) The Mayor, or in his or her absence, the President of the Council, may be the presiding officer pursuant to I.C. 36-4-6-8, and meetings shall be conducted pursuant to the applicable statutes, including I.C. 36-4-6-10 through 17, and in accordance with the following rules:

(1) *Order of business.* The order of business to be followed at a meeting of the Council shall be as follows:

- (a) Calling to order;
- (b) Roll call by Clerk-Treasurer;
- (c) Reading of minutes and approval;
- (d) Petitions or comments of citizens;
- (e) Reports from committees, boards and commissions;
- (f) Unfinished business, including ordinances or resolutions already introduced;
- (g) New business, including introduction of ordinances and resolutions;
- (h) Miscellaneous business, including any matters not already considered;
- (i) Adjournment.

(2) *Contempt and disorder in the Council room.* No person shall use violent or contemptuous language, behave in a disorderly manner or refuse to obey the orders of the presiding officer in the Council room while the Council is in session. The presiding officer may order the removal from the Council room of anyone who intentionally disturbs the decorum of a Council meeting.
(*66 Code, § 2-2-1-2) (Ord. 1571, passed 8-1-83)

§ 32.05 ORDINANCES AND RESOLUTIONS.

(A) All ordinances should be regularly filed with the Clerk-Treasurer at least seven days before a regular meeting; however, the presiding officer of the Common Council may waive this requirement.

(B) A majority vote of the legislative body is required to pass an ordinance, unless a greater vote is required by statute, as per I.C. 36-4-6-12.

(C) Unless otherwise specifically required by statute, every ordinance or resolution shall be read two times before its passage. No ordinance or resolution shall be passed on the same day, or at the same meeting that it is introduced, except by unanimous consent, and then only in case there are present and voting at least 2/3 of all elected members, as set forth in I.C. 36-4-6-13.

(D) The second reading of the ordinance or resolution shall be by title only. After the completion of the reading of the title, the reader shall briefly state the subject matter or contents of the ordinance or resolution unless the subject matter or contents is evident from the reading of the title itself.

(E) Resolutions shall be subject to the same rule in method of introduction and adoption as ordinances.

(F) The passage or adoption of any ordinance or resolution, the yeas and nays, shall be taken and entered in the record, and the ordinances shall be processed in accordance with I.C. 36-4-6-14 through 36-4-6-17.
(Ord. 1949, passed 4-5-10)

§ 32.06 DECISIONS OF PRESIDING OFFICER.

(A) *Questions of order.* The presiding officer shall decide all questions of order. He or she shall decide whether any question submitted to the Council for adoption or rejection is decided in the affirmative or negative.

(B) *Appeal from decision of presiding officer.* From any decision of the presiding officer any member may appeal to the Council. The appeal shall be by motion duly made and seconded. A majority vote as defined in I.C. 36-4-6-11 is necessary to overrule the chair.

(C) *Suspension of rules.* The order of business may be suspended by the presiding officer.
(‘66 Code, § 2-2-1-2) (Ord. 1571, passed 8-1-83)

§ 32.07 ABSTENTION.

An abstention shall be treated as a neutral vote.
(‘66 Code, § 2-2-1-2) (Ord. 1571, passed 8-1-83)

CHAPTER 33: AUTHORITIES, BOARDS, COMMISSIONS AND DEPARTMENTS

Section

- 33.01 Department heads
- 33.02 Board of Public Works and Safety
- 33.03 Board of Zoning Appeals
- 33.04 Department of Law
- 33.05 Department of Planning and Economic Development
- 33.06 Housing Authority
- 33.07 Park and Recreation Board
- 33.08 Plan Commission
- 33.09 Fire Fighter's Pension Board of Trustees
- 33.10 Police Pension Board of Trustees
- 33.11 Police Reserve Division; supplemental rules, regulations and bylaws
- 33.12 Waterworks Department

Cross-reference:

Board of Works Purchasing Agency established, see § 35.30

§ 33.01 DEPARTMENT HEADS.

(A) (1) The members of the Board of Public Works and Safety are the Mayor and two voters of the city who shall be chosen by the Mayor and who shall serve at his or her pleasure. The Elwood Police Chief, the Elwood Fire Chief and the heads of the Law, Sewerage and Waterworks, and Street and Sanitation departments are appointed by the Mayor and shall serve at his or her pleasure, pursuant to I.C. 36-4-9-2.

(2) Pursuant to I.C. 36-4-9-2, the Mayor shall appoint the heads of the departments of Waterworks, Parks and Recreation and Planning and Development with the approval of the statutory board or commission operating the department. Appointees serve at the pleasure of the Mayor. ('66 Code, § 2-3-8-1)

(B) Subject to the appropriation power of the Common Council, the above-referenced departments shall have the ability to hire employees and purchase or contract for the materials or services, as the Board of Public Works and Safety or other governing board or commission deems necessary to perform their public functions. ('66 Code, § 2-3-8-2)
(Ord. 1571, passed 8-1-83)

§ 33.02 BOARD OF PUBLIC WORKS AND SAFETY.

There is established a Board of Public Works and Safety. The Board shall be the chief administrative body of the city and shall have control of the day-to-day operations of the following executive departments now established:

(A) Police Department;

(B) Fire Department;

(C) Utilities Department, consisting of:

(1) The Sewerage Collection and Disposal System; and

(2) Water Generation and Distribution System.

(D) Street and Sanitation Department.

('66 Code, § 2-4-1-1) (Ord. 1571, passed 8-1-83)

Cross-reference:

Authority of Board to allow and approve claims, see § 35.03

Board to comply with certain purchasing procedures, see § 35.33

§ 33.03 BOARD OF ZONING APPEALS.

There is established a Board of Zoning Appeals, pursuant to I.C. 36-7-4-900 and other statutes concerning a board.

('66 Code, § 2-4-3-1) (Ord. 1172, passed 10-3-66)

Cross-reference:

Board of Zoning Appeals; powers and duties, see § 152.71

Zoning, see Chapter 152

§ 33.04 DEPARTMENT OF LAW.

There is a Department of Law established pursuant to I.C. 36-4-9-12.

('66 Code, § 2-3-7-1) (Ord. 1571, passed 8-1-83)

§ 33.05 DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT.

There is established a Department of Planning and Economic Development. The Department shall consist of two divisions:

(A) Planning Division, organized pursuant to I.C. 36-7; and

(B) Economic Development Commission, organized pursuant to I.C. 36-7.
(‘66 Code, § 2-3-6-1) (Ord. 1571, passed 8-1-83)

§ 33.06 HOUSING AUTHORITY.

(A) Pursuant to the *Housing Authorities Act*, as amended, the Council finds that:

(1) Unsanitary and unsafe inhabited dwelling accommodations exist in the city.

(2) There is a shortage of safe and sanitary dwelling accommodations in the city available to persons of low income at rentals they can afford.

(3) There is need for a housing authority to function in the city.
(‘66 Code, § 2-5-4-1)

(B) The name of the housing authority shall be "Housing Authority of the City." (‘66 Code, § 2-5-4-2)
(I.C. 36-7-18-1) (Ord. 1430, passed - -77)

Cross-reference:

Building Regulations, see Chapter 150

§ 33.07 PARK AND RECREATION BOARD.

(A) Under the provisions of I.C. 36-10-3, there is hereby created an Elwood Department of Parks and Recreation.

(B) A board, designated the Elwood Park and Recreation Board, shall be created and composed of:

(1) Four members appointed by the Mayor on the basis of their interest in and knowledge of parks and recreation. No more than two members shall be of the same political party.

(2) One ex-officio member who is a member of and appointed by the Board of the Elwood Community School Corporation.

(3) One ex-officio member who is a member of and appointed by the Board of Trustees of the Elwood Public Library.

(4) The Board of Trustees of the Elwood Public Library and the Board of the Elwood Community School Corporation shall fill any vacancies of their ex-officio members. Ex-officio board members have all the rights of regular members, including, but not limited to, the right to vote.

(C) (1) Upon establishment of the Board, the terms of the Mayor's initial appointments to the Board shall be:

- (a) One member for a term of one year;
- (b) One member for a term of two years;
- (c) One member for a term of three years; and
- (d) One member for a term of four years.

(2) As a term expires, each new appointment shall be made by the Mayor for a term of four years. All terms expire on the first Monday in January, but a member shall continue in office until his successor is appointed. If an appointment for a new term is not made by the Mayor by the first Monday in April, the incumbent shall serve another term. If a vacancy occurs, the Mayor shall appoint a new member for the remainder of the unexpired term.

(D) At its first regular meeting in each year, the Board shall elect a president and vice-president. The vice-president shall have authority to act as the president of the Board during the absence or disability of the president. The Board may select a secretary either from within or without its own membership.

(E) The Board shall have the power to perform all acts necessary to acquire and develop sites and facilities and to conduct the programs as are generally understood to be park and recreation functions. In addition, the Board shall have all the powers and duties listed in I.C. 36-10-3.

(F) The Board shall prepare and submit an annual budget in the same manner as other departments of city government as prescribed by the State Board of Accounts. The Board may accept gifts, donations and subsidies for park and recreation purposes.

('66 Code, § 2-3-5-1) (Ord. 1571, passed 8-1-83; Am. Ord. 1660, passed 2-2-86)

Cross-reference:

Parks, see Chapter 95

§ 33.08 PLAN COMMISSION.

There is established a City Plan Commission pursuant to I.C. 36-7-4-300 and other statutes concerning such a commission.

('66 Code, § 2-4-2-1) (Ord. 1172, passed 10-3-66)

Cross-reference:

Permits; procedure and requirements, see § 152.72

Plan Commission; duties and membership, see § 152.70

§ 33.09 FIRE FIGHTERS' PENSION BOARD OF TRUSTEES.

There shall be a Fire Fighters' Pension Board of Trustees to perform certain duties prescribed by statutes concerning the statutory pensions of the city's fire fighters.

('66 Code, § 2-3-2-2) (Ord. 1571, passed 8-1-83)

Cross-reference:

Funeral benefits for police officers and fire fighters, see § 36.02

§ 33.10 POLICE PENSION BOARD OF TRUSTEES.

There shall be a Police Pension Board of Trustees to perform certain duties prescribed by statutes concerning the statutory pension of the city's police officers.

('66 Code, § 2-3-1-2) (Ord. 1571, passed 8-1-83)

Cross-reference:

Funeral benefits for police officers and fire fighters, see § 36.02

§ 33.11 POLICE RESERVE DIVISION; SUPPLEMENTAL RULES, REGULATIONS AND BY-LAWS.

(A) *Approval.* The supplemental rules and regulations of the Police Department Reserve Division and the bylaws below are hereby approved.

(B) *Suspension for violations.* Any member of the Elwood Police Department Reserve Division who violates any of the rules and regulations of the Elwood Police Department Reserve Division may be suspended by the Chief of the Police Department in his discretion, without benefit of notice or hearing.

(C) *Compliance to rules.* Each reserve officer shall comply to all rules and regulations of the Police Department and additionally, to all rules and regulations contained herein to insure the officer continues good standing with the Police Department and the Police Department Reserve Division.

(D) *Rules and regulations.* Each officer shall:

(1) Disregard internal rank when assisting a full-time officer;

(2) Never attempt to stop a vehicle using his or her personal vehicle. This is for officer safety as well as state statute;

(3) Notify the Reserve Division Secretary of any change of address, telephone number(s) or employment status;

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(4) (a) Not have any police transmitter equipped in their personal vehicle or in their possession without written authorization by the Chief of Police. Authorization must be carried in the vehicle at all times;

(b) Hand held walkie talkie radios issued to the officer by the Police Department or another organization of private employment are exceptions.

(5) No reserve officer shall, at their expense, purchase any equipment bearing the insignia of the Elwood Police Department unless prior written approval is obtained from the Chief of Police. All purchases become the property of the Elwood Police Department. All uniform purchases shall be coordinated through the Chief of Police. Further, upon termination for any reason or retirement as a reserve officer, the reserve officer will immediately turn in all items issued by or bearing the insignia of the Police Department.

(6) In the event of a leave of absence, a reserve officer shall be required to attend all scheduled training courses or seminars during the leave or be subject to dismissal. It shall be the duty of the reserve officer to keep in contact with the Reserve Division Commander concerning these functions. Upon return from a leave of absence of three months or more, the reserve officer shall revert to the "shadow" portion of the field training officer training to determine if remedial training is required.

(7) All reserve officers shall be equally responsible for the upkeep of vehicles assigned to the Reserve Division or any vehicle used by a reserve officer. Each officer shall insure the vehicle interior is free of trash before going off duty and the vehicle has a full tank of gas. Any officer found to misuse any vehicle of the Elwood Police Department will be subject to disciplinary action.

(8) All reserve officers shall, in accordance to the Elwood Police Department policy, be evaluated in their performance every six months, beginning with their anniversary date. Evaluations shall be made by the officer's shift supervisor in conjunction with the Chief of Police.

(9) No reserve officer may be employed by another law enforcement agency, either gainfully or volunteer basis, requiring the use of police powers.

(10) No reserve officer may be employed as their sole means of support in any security or law enforcement function in which the police powers authorized by the Chief of Police are required.

(11) Each reserve officer shall submit to a pre-acceptance drug screening and shall submit to random drug screens as per the current drug policy for all employees of the city.

(12) In the event a reserve officer is arrested for an offense that would have precluded him or her from becoming a member of the Police Department Reserve Division originally, the Chief of Police may upon a reasonable belief that the officer committed the offense dispatch a full-time or reserve brass officer to that members place of residence to retrieve all identification cards, badges, uniforms and equipment belonging to the Police Department and immediately suspend the member from the Police Department Reserve Division. Upon final adjudication of the offense, if the former member is found to be not guilty, the member may apply to the Chief of Police for reinstatement.

(13) Reserve officers must be approved by the Board of Public Works and Safety at the recommendation of the Chief of Police and continue to serve at the pleasure of the Chief of Police.

(E) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DIVISION. Founded under the direction of the Chief of Police, the Police Department Reserve Division.

OFFICER, RESERVE OFFICER, MEMBER. When referred to in these by-laws, the terms shall be "Elwood Police Department Reserve officers."

RESERVE BRASS. When referred to in these by-laws, the term shall include all reserve officers holding the internal rank of sergeant or above.

RULES AND REGULATIONS. When referred to in these by-laws, the terms shall include both the Elwood Police Department's policy manual and Elwood Police Department Reserve Division supplemental rules and regulations.

(F) *Authority.* Pursuant to the authority granted to the Chief of Police by law, the following by-laws are hereby established for the operation of the Elwood Police Department Reserve Division.

(G) *Purpose and objectives.*

(1) The members of the Elwood Police Department Reserve Division are dedicated to support and assist the Elwood Police Department and the citizens of Elwood.

(2) The objectives of these by-laws are as follows:

- (a) To assist the Elwood Police Department and provide trained manpower;
- (b) To encourage more citizen understanding, cooperation and participation in city law enforcement;
- (c) To provide relief for the full-time officers when necessary;
- (d) To support any and all programs initiated by the Chief of Police;
- (e) To augment manpower when there is a shortage for any reason; and
- (f) To improve and support the way of life of the citizens of Elwood by supporting and assisting with their lawful activities.

(H) *Structure.*

(1) *Direction.* The Reserve Division comes under the direction of the Chief of Police.

(2) *Police function.* The Reserve Division is authorized up to ten officers assigned to shifts within the law enforcement division, special events or special assignments designated by the Chief of Police. Direct supervisory reporting for reserve officers is to the supervisor to which they are assigned by shift of function as road qualified officers. Non-road qualified and other general duty support officers will report to the Chief of Police or Shift Commander.

(3) *Division organization.* The Reserve Division structure consists of a Reserve Captain and a Reserve Lieutenant and up to eight reserve officers. Rank reflects position within the Reserve Division and provides a method to conduct and supervise the Division's operation and business activity. Rank will be used in a police function.

(4) *Secretary.* He or she shall be responsible for keeping the minutes of staff and division meetings and recording attendance at those meetings. Responsible for keeping records of the members of the Reserve Division and providing up-to-date information to those members.

(5) *Special Events Coordinator.* He or she will schedule, oversee and coordinate the duties and functions of special events, such as parades, bike patrol, other security or traffic functions.

(6) *Fleet Officer.* He or she will be responsible for all maintenance and general upkeep of the Reserve Division's vehicles, will oversee the cleaning of the vehicles with the help of the entire Division, will keep records of preventive and corrective maintenance and will submit all documentation to the Chief of Police. This function does not preclude individual reserve officers to ignore their duty to appropriately care for and maintain the vehicles of the Police Department.

(7) *Training Coordinator.* He or she will be responsible for coordinating, with the Department's Training Officer, all Department training for the Reserve Division. It will be this officer's responsibility to notify all reserve officers of scheduled training.

(8) *Statistician.* He or she will be responsible for maintaining records of time worked by reserve officers and statistics of work quantity and quality.

(I) *Trainee status.*

(1) *Trainee designation; attendance.* Once accepted by the Reserve Division, each candidate is designated as a trainee and must attend training as follows.

(a) *Pre-training seminar.* A 48-hour minimum training on radio dispatching, Police Department rules and regulations and procedure.

(b) *Training academy.* Each trainee without prior law enforcement experience and training must attend and successfully complete an approved reserve training academy (pre-basic course).

(c) *Review of skills.* Trainees with prior law enforcement experience and formal academy training must have their skills and formal training reviewed and approved by the Chief of Police and be in compliance with state law and Elwood Police Department requirements.

(d) *Qualification.* Trainees must qualify and show proficiency with the designated duty firearm of the Police Department.

(2) *Probationary status.*

(a) Upon satisfactory completion of all training requirements, each trainee officer shall be sworn in as a Elwood Police Department reserve police officer. During the probationary period (usually one year), each officer will be placed in the field training/officer training program and is expected to complete the field training officer program within the probationary period.

(b) The field training program consists of the probationary officer working with an assigned full-time police officer. A probationary officer will be expected to observe officers in their daily duties, and gradually take on duties with the full-time officer as instructor in each case handled. As the probationary officer gains knowledge and confidence, he or she will take on more responsibility.

(c) Failure to satisfactorily complete the field training program during the probationary period will result in the officers dismissal from the Police Department Reserve Division without cause.

(d) During the probationary period, the reserve officer in field training officer status is restricted and must work under the direction of his or her field training officer or full-time senior road qualified officer. The reserve officer in field training officer status will not work any paid detail. Any arrest must be made in the presence of a field training officer or full-time senior road qualified officer.

(3) *Road qualified status.* Upon successful completion of the field training program, the officer will be designated as a road qualified officer (even though he or she may still be on probation for the remainder of the probationary period).

(J) *Duties.* As members of the Elwood Police Department Reserve Division, each officer must:

(1) Conform to the monthly duty schedule as outlined by the Chief of Police.

(2) Satisfactorily complete all firearms qualifications conducted by the Elwood Police Department approved instructors. No firearm shall be carried unless qualified as required. Unless a personal protection permit has been acquired no reserve division officer will be permitted to carry a handgun unless on duty.

(3) A reserve division officer will have arrest powers only when working for the Police Department in full uniform. If the officer observes a felony or a misdemeanor in progress while off duty, they should notify proper authorities, then stand by to supply additional information and to assist if requested.

(4) Participate in all required training programs designated by the Elwood Police Department.

(5) Perform a minimum of 240 hours of scheduled details each year with no more than 30 days between details unless on approved leave of absence. These details shall include the following:

- (a) Road patrol as assigned by the Chief of Police;
- (b) Special events authorized by the Chief of Police; and
- (c) Additional details as required by the Chief of Police.

(K) *Meetings.* Divisional meetings will be scheduled as needed by the Chief of Police on a consistent basis, usually monthly. Training will be scheduled during these meetings.

(L) *Resignation and retirement.*

(1) *Voluntary resignation.* A reserve officer may at his or her discretion resign from the Elwood Police Department Reserve Division by submitting a letter of resignation to the Chief of Police. Upon submitting the letter of resignation, the officer will contact the Chief of Police to arrange a convenient time to return all uniforms and equipment issued to the officer by the Elwood Police Department, including firearms, ammunition, badges and ID card.

(2) *Involuntary resignation.* A reserve officer will be terminated involuntarily for:

(a) Any violation of the general orders of the Elwood Police Department which the Chief of Police deems serious enough to warrant termination.

(b) Any violation of the supplemental rules and regulations of the Elwood Police Department Reserve Division which the Chief of Police deems serious enough to warrant termination.

(3) *Retirement.* A reserve officer in good standing may, at the discretion of the Chief of Police, retire. Retirees shall meet the following requirements:

- (a) The retiree shall have no less than ten years service to the Elwood Police Department.
- (b) The retiree must give his or her intentions in writing to the Chief of Police for review.
- (c) The retiree shall forfeit any rank and be removed from the roster.
- (d) The provision of retirement is meant to be an alternative to quitting after a long period of service. It is not intended to be a way of retaining police powers.
- (e) Retirees shall meet all state requirements in respect to carrying firearms.

(f) The retiree acknowledges a legal separation from the Elwood Police Department because training and adherence to policy is no longer required.

(Ord. 1882, passed 10-7-96)

Cross-reference:

Drug and Alcohol Policy, see § 36.15 through 36.34

§ 33.12 WATERWORKS DEPARTMENT.

There is a Department of Waterworks organized, pursuant to I.C. 36-9. ('66 Code, § 2-3-3-1) (Ord. 1571, passed 8-1-83)

CHAPTER 34: CITY COURT

Section

General Provisions

- 34.01 Continuation of City Court
- 34.02 City Judge
- 34.03 Funding
- 34.04 Failure to appear fee

Adult Probation Department

- 34.15 Department established
- 34.16 Adult Probation Services Fund

GENERAL PROVISIONS

§ 34.01 CONTINUATION OF CITY COURT.

The City Court is continued as a part of the city government.
('66 Code, § 2-8-2-1) (Ord. 1550, passed - -82)

§ 34.02 CITY JUDGE.

(A) There shall be the office of City Judge. Election for office shall be held, in accordance with the provisions of law now or hereafter in effect, for a term as provided by law, and the judge shall exercise the powers and duties of office as provided for under Chapter 129 of the Acts of the Indiana General Assembly of 1905, and as the law has been amended and supplemented. ('66 Code, § 2-8-1-1) (Ord. 1172, passed 10-3-66)

(B) The City Judge must have been a resident of Elwood for five years. ('66 Code, § 2-8-1-3) (Ord. 1303, passed - -71)

§ 34.03 FUNDING.

(A) It shall be the duties of the proper officers of the city to include in the annual budget of the city each and every year, for the following year, the amount of salary fixed by ordinance for City Judge, as by law now provided, and necessary expenses of the office. ('66 Code, § 2-8-1-2) (Ord. 1172, passed 10-3-66)

(B) The Council shall provide for the funding of City Court from time to time in its yearly budget. ('66 Code, § 2-8-2-2) (Ord. 1550, passed - -82)

§ 34.04 FAILURE TO APPEAR FEE.

(A) The Elwood City Court may impose a failure to appear fee in the amount of \$50 per separate cause of action in the event that a respondent/defendant shall fail to appear for any scheduled court appearance on an ordinance violation, infraction or misdemeanor filed in Elwood City Court.

(B) The failure to appear fee authorized in division (A) of this section shall be in addition to any and all other costs, fines and fees authorized and/or required under the laws or statutes of the state, the county and the city and shall be collected by the Court Clerk and transmitted to the Clerk-Treasurer of the city as a failure to appear fee (FTA fee) to be deposited in the General Fund of the city. (Ord. 1894, passed 7-10-97)

ADULT PROBATION DEPARTMENT**§ 34.15 DEPARTMENT ESTABLISHMENT.**

There is hereby created an Adult Probation Department, which shall be a part of the judicial branch of the city and shall report to the City Court Judge. (Ord. 1946, passed 4-3-00)

§ 34.16 ADULT PROBATION SERVICES FUND.

(A) There is hereby established an Adult Probation Services Fund within the judicial budget of the City of Elwood.

(B) All money collected by the City Clerk under the provision of I.C. 35-38-2-1 shall be deposited into the Adult Probation Services Fund.

(C) The expenditures from the fund shall be in accordance with the established claim procedures as provided by law and for those expenditures authorized by I.C. 35-38-2-1.

(D) Any fee collected and deposited to the Adult Probation Services Fund shall be maintained in the fund and shall revert to the fund only.

(Ord. 1946, passed 4-3-00)

Cross-reference:

Funds, see §§ 35.15 et seq.

CHAPTER 35: FINANCE, TAXATION AND FUNDS

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GENERAL PROVISIONS**§ 35.01 BUDGET FOR MEMBERSHIPS.**

The Council is authorized to budget and appropriate funds from the General Fund or from other funds to provide membership for the city and the elected and appointed officials and members of the municipality's boards, councils, departments or agencies in local, regional, state and national associations of a civic, educational or governmental nature, which have as their purpose the betterment and improvement of municipal operations.

('66 Code, § 2-6-2-1) (Ord. 1551, passed 7-12-82)

§ 35.02 ATTENDANCE EXPENSES.

The Common Council is further authorized to budget and appropriate funds to pay the expenses of duly authorized representatives to attend the meetings and functions of organizations to which the municipality belongs.

('66 Code, § 2-6-2-2) (Ord. 1551, passed 7-12-82)

§ 35.03 AUTHORITY OF BOARD OF PUBLIC WORKS AND SAFETY TO ALLOW AND APPROVE CLAIMS.

The Board of Works and Public Safety of the city shall be, and hereby is, authorized to allow and approve claims against the city in accordance with I.C. 36-4-8-5, and any other statutes which currently, or in the future, relate to such claims.

(Ord. 1569, passed 5-9-83)

§ 35.04 CLAIM PAYMENTS IN ADVANCE OF BOARD ALLOWANCE.

(A) The City Fiscal Officer (Clerk-Treasurer) may make claim payments in advance of Board allowance for the following kinds of expenses as per the authority of I.C. 36-4-8-14:

- (1) Property or services purchased or leased from the United States government, its agencies or its political subdivisions;
- (2) License or permit fees;
- (3) Insurance premiums;
- (4) Utility payments or utility connection charges;
- (5) General grant programs where advance funding is not prohibited and the contracting party posts sufficient security to cover the amount advanced;
- (6) Grants of state funds authorized by statute;
- (7) Maintenance or service agreements;
- (8) Leases or rental agreements;
- (9) Bond or coupon payments;
- (10) Payroll; and
- (11) State, federal or county taxes.

(B) Each payment of expenses under this section shall be supported by a fully itemized claim.

(C) The Board of Public Works for the city having jurisdiction over the allowance of claims, shall review and allow the claims at its next regular or special meeting following the pre-approved payment of the expenses.

(Ord. 1779, passed 2-2-93)

§ 35.05 REAL AND PERSONAL PROPERTY TAX ABATEMENT FOR ECONOMIC REVITALIZATION AREAS.

(A) Substantive provisions of I.C. 6-1.1-12.1-1 *et seq.*, are hereby adopted and incorporated within this section as though the provisions were fully set forth herein in detail, it being the purpose and intent

hercof to offer to property owners within the city the maximum deductions from the assessed value of both real and personal property authorized and allowed pursuant to the foregoing Indiana enabling legislation.

(B) The entire area within the corporate limits of the city is an economic revitalization area within the meaning of Indiana Senate enrolled Act No. 86, Sections 5, 6, 7, 8 and 9, which amended I.C. 6-1.1-12.1-1 as amended.
(‘66 Code, § 3-4-1-1)

(C) It is the city’s purpose to encourage growth, redevelopment and rehabilitation and that the owner of property which is located in the economic revitalization area is entitled to a deduction from the assessed value of the property for a period as determined by the City Council if:

(1) The property has been rehabilitated; or

(2) The property is located on real estate which has been redeveloped.
(‘66 Code, § 3-4-1-2)

(D) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PROPERTY. A building or structure, but does not include land.

REDEVELOPMENT. The construction of new structures on unimproved real estate or on real estate upon which a prior existing structure is demolished to allow for new construction.

REHABILITATION. The remodeling, repair or betterment of property in any manner or any enlargement of extension or property.
(‘66 Code, § 3-4-1-3)

(E) The amount of the deduction which the property owner is entitled to receive for a particular year shall be determined by the Common Council.

(F) A general assessment of real property which occurs within the applicable period does not affect the amount of the deduction.
(‘66 Code, § 3-4-1-4)

(G) To the extent permitted and authorized by I.C. 6-1.1-12.1-1 *et seq.*, the owners of new manufacturing equipment within the corporate limits of the city heretofore designated an “economic revitalization area” shall be entitled to a deduction from the assessed value of tangible personal property for a period of years as determined by the City Council.
(Ord. 1486, passed 7-30-79; Am. Ord. 1579, passed 10-18-83)

§ 35.06 BAD DEBT AND UNCOLLECTIBLE ACCOUNTS RECEIVABLE WRITE-OFF POLICIES AND PROCEDURES GENERALLY.

(A) In the event that accounts receivable under this section, as amended from time to time, are not paid within the time fixed by the City of Elwood (hereinafter "the city") or a city agency or department, the same shall be deemed delinquent. A penalty of 10% of the amount of the accounts receivable may be attached as delinquent fees.

(B) As used herein, the term *UNCOLLECTIBLE ACCOUNT* shall have the following meaning: a delinquent accounts receivable for which the city or city agency or department has reasonably and diligently attempted collection, but in which such collection remains unsuccessful.

(C) The city or city agency or department shall prepare a semi-annual schedule of uncollectible accounts. The semi-annual schedule shall consist of accounts the city or city agency or department has determined to be uncollectible.

(D) The city or city agency or department shall generate a statement setting forth the efforts that have been made to collect the account and a statement that such efforts have been unsuccessful.

(E) The city or city agency or department shall produce a statement, including the reasons therefore, that the city or city agency or department believes it is not economically feasible to pursue collection efforts on the specified uncollectible account.

(F) A schedule of uncollectible accounts shall be submitted to the Board of Public Works for action by the City Council to declare the accounts listed as collectible or uncollectible and may authorize the city or city agency or department to cease further collection procedures and expense the amounts outstanding on the accounts declared uncollectible as bad debts.

(G) The city or city agency or department may attempt to recover the amount of the bad debt in a civil action against the debtor.

(H) Accounts in which state and/or federal law mandates an amount is to be written off shall be written off as bad debts upon the approval of the Clerk-Treasurer of the city.
(Ord. 2101, passed 10-6-10)

§ 35.07 BAD DEBT AND UNCOLLECTIBLE ACCOUNTS RECEIVABLE WRITE-OFF POLICIES AND PROCEDURES FOR MUNICIPAL WATER UTILITY.

(A) In the event that accounts receivable under this section, which includes water, sewer, and trash fees, as amended from time to time, are not paid within the time fixed by the City of Elwood Municipal (hereinafter "the utility") the same shall be deemed delinquent. A penalty of 10% of the amount of the

accounts receivable may be attached as delinquent fees for sewer and sanitation fees. A penalty of 10% of the first \$3 and 3% of the remaining delinquent water fees will be assessed against delinquent water fees.

(B) As used herein, the term *UNCOLLECTIBLE ACCOUNT* shall have the following meaning: a delinquent accounts receivable for which the utility has reasonably and diligently attempted collection, but in which such collection remains unsuccessful.

(C) The utility shall prepare a semi-annual schedule of uncollectible accounts. The semi-annual schedule shall consist of accounts the utility has determined to be uncollectible.

(D) The utility shall generate a statement setting forth the efforts that have been made to collect the account and a statement that such efforts have been unsuccessful.

(E) The utility shall produce a statement, including the reasons therefore, that the utility believes it is not economically feasible to pursue collection efforts on the specified uncollectible account.

(F) A schedule of uncollectible accounts shall be submitted to the Board of Public Works for action by the Board of Public Works to declare said accounts listed as collectible or uncollectible and may authorize the utility to cease further collection procedures and expense the amounts outstanding on the accounts declared uncollectible as bad debts.

(G) The utility may attempt to recover the amount of the bad debt in a civil action against the debtor.

(H) Accounts in which state and/or federal law mandates an amount is to be written off shall be written off as bad debts upon the approval of the Clerk-Treasurer of the city.

(Ord. 2102, passed 10-4-10)

FUNDS

§ 35.15 CASH RESERVE FUNDS.

(A) A Cash Reserve Fund is hereby authorized and created from surplus earnings of the Elwood Sewage Company, and disbursements therefrom may be approved by the Common Council from time to time.

(B) A Cash Reserve Fund is hereby authorized and created from surplus earnings of the Elwood Water Company, out of which a loan shall be made to the Elwood Wastewater Company for payment for health insurance premiums, equipment repairs, and/or purchases and lease payments, for a period not to exceed five years with no interest thereon.

(C) The Cash Reserve Funds shall be managed in accordance with I.C. 8-1.5-3-11. (Ord. 1570, passed 5-9-83; Am. Ord. 2030, passed 10-3-05)

§ 35.16 CUMULATIVE CAPITAL DEVELOPMENT FUND.

(A) There is hereby established an Elwood Cumulative Capital Development Fund.

(B) An ad valorem property tax levy will be imposed and the revenues from the levy will be retained in the Elwood Cumulative Capital Development Fund.

(C) The funds accumulated in the Elwood Cumulative Capital Development Fund will be used for the payment of the city's portion of the Elwood "P" Street Project, as per 36-9-16.5-2, improvements of public ways. Further, to accumulate funds to be used for the construction of public buildings. As per I.C. 36-9-16-2, to acquire the land, and any improvements on it that are necessary for the construction of public buildings.

(D) Notwithstanding division (C) above, funds accumulated in the Elwood Cumulative Capital Development Fund may be spent for purposes other than the purposes stated, if the purpose is to protect the public health, welfare or safety in an emergency situation which demands immediate action. Money may be spent under the authority of this section only after the Mayor issues a declaration that the public health, welfare and safety is in immediate danger that requires the expenditure of money in the fund. (Ord. 1620, passed 7-1-85; Am. Ord. 1817, passed 7-11-95)

§ 35.17 PUBLIC EMPLOYEES' RETIREMENT FUND.

(A) The city hereby elects to become a participant in the Public Employees' Retirement Fund as established by I.C. 5-10.2-1 and all acts amendatory and supplemental thereto.

(B) The city hereby agrees to make the required contributions under I.C. 5-10.2-1, and all acts amendatory and supplemental thereto. The city shall appropriate funds as are necessary each year to pay the current costs of participation in the fund accruing annually.

(C) The positions listed on Appendix A attached to Ordinance No. 1630, as modified, are declared to be covered by the fund and are adopted by reference as if set out fully in this section.

(D) It is hereby declared that none of the classifications or positions specified in the appendix described in division (C) are compensated on a fee basis or of an emergency nature or in a part-time category.

(E) The active participating membership of the city shall begin on July 1, 1986.
(Ord. 1630, passed 5-5-86)

Editor's note:

The city from time to time enacts resolutions enlarging its participation in the Public Employees' Retirement Fund. Copies of these resolutions are on file and available for public inspection in the office of the City Clerk.

§ 35.18 NON-REVERTING SPECIAL FUND FOR THE RECEIPT AND PAYMENT OF RETIREE INSURANCE PREMIUM FUNDS.

There is hereby established in the Clerk-Treasurer's Office a non-reverting special fund to receive and manage retiree insurance premiums, and to appropriate distributions therefrom, all for the purpose of complying with the collective bargaining agreements, currently in existence and as later amended.
(Ord. 1974, passed 11-5-01)

§ 35.19 HUMANE DEPARTMENT FUND.

(A) The Common Council for the city hereby establishes a non-reverting, restricted fund for the City of Elwood Humane Department.

(B) The monies accumulated in the non-reverting, restricted fund shall be used to purchase equipment and supplies for the Humane Department.

(C) The donations made to the Humane Department shall be restricted by the donor to the purchase of equipment and supplies for the Humane Department.

(D) The Common Council hereby authorizes the use of the monies accumulated in the Humane Department's Non-Reverting, Restricted Fund by the head of the Department for the purchase of equipment and supplies.
(Ord. 2069, passed 9-8-08)

§ 35.20 RAINY DAY FUND.

(A) A Rainy Day Fund is hereby established in accordance with I.C. 36-1-8-5 and I.C. 36-1-8-5.1 and will be administered accordingly.

(B) The city may only use the funding source specified herein to fund the Rainy Day Fund: the CEDII funds received and to be received from the Madison County Auditor and the Tipton County Auditor.

(C) The city may, in the future, adopt a subsequent ordinance or resolution authorizing the use of another funding source for the Rainy Day Fund.

(D) Under I.C. 36-1-8-5.1, the Department of Local Government Finance may not reduce the actual maximum permissible levy of the city as a result of the balance in the Rainy Day Fund of the city.

(E) The Rainy Day Fund is subject to the same appropriation process as any other tax money received by the city.

(Ord. 2047, passed 5-14-07)

PURCHASING PROCEDURES

§ 35.30 BOARD OF WORKS PURCHASING AGENCY ESTABLISHED.

The Board of Works Purchasing Agency or the Purchasing Agency is established as the purchasing agency for the city.

(Ord. 1913, passed 6-22-98)

§ 35.31 POWERS AND DUTIES.

(A) The Purchasing Agency shall have all the powers and duties authorized under I.C. 5-22, as may be supplemented from time to time by ordinances adopted by the Council and policies adopted by the Purchasing Agency.

(B) The Purchasing Agency shall act as the purchasing agency for every agency, board, office, branch, bureau, commission, council, department or other establishment of the governmental body of the city.

(Ord. 1913, passed 6-22-98)

§ 35.32 DESIGNATION OF PURCHASING AGENTS.

The Purchasing Agency may designate in writing any employee of the city as a purchasing agent.

(Ord. 1913, passed 6-22-98)

§ 35.33 PURCHASING REGULATIONS.

(A) The Elwood Board of Public Works and Safety, in purchasing materials where the total purchase price of the materials is \$5,000 or more, but less than \$25,000, shall be obligated to solicit and receive two separate quotes for each public purchase so contemplated.

(B) Upon the solicitation and receipt of two separate quotes as hereinabove contemplated, the Elwood Board of Public Works and Safety shall award a contract for the purchase of the materials to the lowest responsible and responsive vendor who has submitted quotes for each class of materials required. However, if a contract awarded under this section is not awarded to that vendor who has submitted the lowest quote, the factors used to justify that award must be stated specifically in the minutes of the Elwood Board of Public Works and Safety at the time the award is made, and the minutes must be kept available for public inspection.

(C) As with regard to any other public purchase, the Elwood Board of Public Works and Safety may reject all quotes and ask for new quotes. If no valid quotes are received for an item, the Board may purchase that item on the open market without further solicitation of quotes, after stating specifically in the minutes of the board from whom quotes were solicited and that no such solicited quotes were forthcoming from the vendors.

(D) For the purposes of this section, definitions of the terms "materials," "responsible quoter (vendor)" and "responsive quoter (vendor)" shall be the same as those definitions specified in I.C. 5-22-10-4 for the same terms.

(E) The terms and provisions of this section shall be binding upon the Elwood Board of Public Works and Safety in fulfilling its responsibilities as purchasing agent for both the Elwood Civil City and Elwood Utilities.

(Ord. 1602, passed 1-7-85)

§ 35.34 PURCHASE OF SUPPLIES MANUFACTURED IN THE UNITED STATES.

Supplies manufactured in the United States shall be specified for all city purchases, and shall be purchased unless the city determines that:

(A) The supplies are not manufactured in the United States in reasonably available quantities;

(B) The prices of the supplies manufactured in the United States exceed by an unreasonable amount the price of available and comparable supplies manufactured elsewhere;

(C) The quality of the supplies manufactured in the United States is substantially less than the quality of comparably priced available supplies manufactured elsewhere; or

(D) The purchase of supplies manufactured in the United States is not in the public interest.

(Ord. 1926, passed 6-7-99)

*FIXED ASSET CAPITALIZATION POLICY***§ 35.40 DEFINITIONS AND PROVISIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUILDINGS.

(1) A department will capitalize buildings at full cost with no subcategories for tracking the cost of attachments. Examples of attachments are roofs, heating, cooling, plumbing, lighting, or sprinkler systems or any part of the basic building. The department will include the cost of items designed or purchased exclusively for the building.

(2) A department's new building will be capitalized only if it meets the following conditions:

- (a) The total cost exceeds \$10,000; and
- (b) The useful life is greater than two years.

(3) A department improving or renovating an existing building will capitalize the cost only if the result meets all of the following conditions:

- (a) The total cost exceeds \$10,000;
- (b) The useful life is extended two or more years; and
- (c) The total cost will be greater than the current book value and less than the fair market value.

(4) Capital building costs will include preparation of land for the building, architectural and engineering fees, bond issuance fees, interest cost (while under construction), accounting costs of material and any costs directly attributable to the construction of a building.

(5) A department will record donated buildings at fair market value on the date of transfer with any associated costs.

(6) Purchases made using federal or state funding will follow the source funding policies and above procedures.

CAPITAL OUTLAYS. Expenditures which benefit both the current and future fiscal periods. This includes costs of acquiring land or structure; construction or improvements of buildings, structures or other fixed assets; and equipment purchases having an appreciable and calculable period of usefulness. These are expenditures resulting in the acquisition of or addition to the government's general fixed assets.

ENTERPRISE FUNDS.

(1) Those funds used to account for operations:

(a) That are financed and operated in a manner similar to private business enterprise - where the intent of the governing body is that the costs (expenses, including depreciation) of providing goods or services to the general public on a continuing basis be financed or recovered primarily through user charges; or

(b) Where the governing body has decided that periodic determination of revenues earned, expenses incurred, and/or net income is appropriate for capital maintenance, public policy, management control, accountability and other purposes.

(2) The enterprise funds in the city shall include the municipally owned water and sewage utilities. Operation of these utilities shall require enterprise fund accounting and reporting.

FIXED ASSET. Tangible assets of a durable nature employed in the operating activities of the unit and that are relatively permanent and are needed for the production or sale of goods or services are termed property, plant and equipment or fixed assets. These assets are not held for sale in the ordinary course of business. This broad group is usually separated into classes according to the physical characteristics of the items (e.g. land, buildings, improvements other than buildings, machinery and equipment, furniture and fixtures).

HISTORICAL COST. The cash equivalent price exchanged for goods or services at the date of acquisition. Land, buildings, equipment and most inventories are common examples of items recognized under the historical cost attribute.

IMPROVEMENTS OTHER THAN BUILDINGS.

(1) The definition of this group is improvements to land for better enjoyment, attached or not easily removed and will have a life expectancy of greater than two years.

(2) Examples are walks, parking areas and drives, golf cart paths, fencing, retaining walls, pools, outside fountains, planter underground sprinkler systems and other similar items.

(3) *IMPROVEMENTS* do not include roads, streets or assets that are of value only to the public. Roads or drives upon city-owned land that provide support to city facilities are assets. A sidewalk down the road for public enjoyment is an *INFRASTRUCTURE IMPROVEMENT* and is not capitalized. However, sidewalks installed upon city-owned land for use by the public and for the support of city facilities are capital assets.

(4) This city will capitalize new improvements or renovations to existing improvements other than buildings only if the result meets the following conditions:

- (a) The total cost exceeds \$10,000;
- (b) The asset's useful life is extended two or more years; and
- (c) The total cost will be greater than the current book value and less than the fair market value.

(5) A department's donated improvements other than buildings will be recorded at fair market value on the date of transfer with any associated costs.

(6) Purchases made using federal or state funding will follow the source funding policies and above procedures.

LAND.

(1) This city will capitalize all land purchases, regardless of cost.

(2) Exceptions to land capitalization is land purchased outright, as easements or rights-of-way for infrastructure. Examples of infrastructures are roads, streets, street lighting systems, bridges, overpasses, sidewalks, curbs, parking meters, street signs, viaducts, wharfs and storm water collection.

(3) Original cost of land will include the full value given to the seller, including relocation, legal services incidental to the purchase (including title work and opinion), appraisal and negotiation fees, surveying and costs for preparing the land for its intended purpose (including contractors and/or city workers (salary and benefits)), such as demolishing buildings, excavating, clean-up, and/or inspection.

(4) A department will record donated land at fair market value on the date of transfer plus any associated costs.

(5) Purchases made using federal or state funding will follow the source funding policies and above procedures.

MACHINERY AND EQUIPMENT.

(1) The definition of ***MACHINERY AND EQUIPMENT*** is an apparatus, tool or conglomeration of pieces to form a tool. The tool will stand alone and not become a part of a basic structure or building.

(2) This city will capitalize and tag items with an individual value equal to or greater than \$10,000. Machinery combined with other machinery to form one unit with a total value greater than the above mentioned limit will be one unit.

(3) Shipping charges, consultant fees and any other costs directly associated with the purchase, delivery or set up, (including contractors and/or city workers (salary and benefits)), which makes the equipment operable for its intended purpose will be capitalized.

(4) Improvements or renovations to existing machinery and equipment will be capitalized only if the result of the change meets all of the following conditions:

(a) Total costs exceeds \$10,000;

(b) The useful life is extended one or more years; and

(c) The total costs will be greater than the current book value and less than the fair market value.

(5) Examples include:

(a) A work truck being equipped with screens, lights or radios for use as a single unit throughout its life expectancy is considered one unit;

(b) If police cars are constantly changing light bars or radios to other vehicles, the city will capitalize each piece of equipment separately, if it meets the required dollar amount;

(c) A department's computer (CPU, monitor, keyboard and printer) is considered one unit;

(d) A department will record donated machinery and equipment at fair market value on the date of transfer with any associated costs; and

(e) Purchases made using federal or state funding will follow the source funding policies and above procedures.

TANGIBLE ASSETS. Assets that can be observed by one or more of the physical senses. They may be seen and touched and, in some environments, heard and smelled.
(Ord. 2044, passed 12-4-06; Am. Ord. 2044, passed 7-12-10)

§ 35.41 RECORDING AND ACCOUNTING.

(A) The city and its various departments shall classify capital expenditures as capital outlays within the fund from which the expenditure was made in accordance with the *Chart of Accounts of the Cities and Towns Accounting Manual*. The cost of property, plant and equipment includes all expenditures necessary to put the asset into position and ready for use. For purposes of recording fixed assets of the city and its departments, the valuation of assets shall be based on historical cost or where the historical cost is indeterminable, by estimation for those assets in existence.

(B) The city's municipally owned utilities shall record acquisition of fixed assets in accordance with generally accepted accounting principles. When an asset is purchased for cash, the acquisition is simply recorded at the amount of cash paid, including all outlays relating to its purchase and preparation for intended use. Assets may be acquired under a number of other arrangements including:

- (1) Assets acquired for a lump-sum purchase price;
- (2) Purchase on deferred payment contract;
- (3) Acquisition under capital lease;
- (4) Acquisition by exchange of nonmonetary assets;
- (5) Acquisition by issuance of securities;
- (6) Acquisition by self-construction; and
- (7) Acquisition by donation or discovery.

(C) Some of these arrangements present special problems relating to the cost to be recorded, for example, in utility accounting, interest during a period of construction has long been recognized as a part of the asset cost. Reference to an intermediate accounting manual will illustrate the recording of acquisition of assets under the aforementioned acquisition arrangements. For purposes of recording fixed assets of the utilities, the valuation of assets shall be based on historical cost.

(D) In addition, an asset register (prescribed form 211) shall be maintained to provide a detailed record of the capital assets of the governmental unit.

(Ord. 2044, passed 12-4-06; Am. Ord. 2044, passed 7-12-10)

§ 35.42 SAFEGUARDING OF ASSETS.

Be it ordained that accounting controls shall be designed and implemented to provide reasonable assurances that:

(A) Capital expenditures made by the city, its various departments and utilities shall be in accordance with management's authorization as documented in the minutes;

(B) Transactions of the utilities shall be recorded as necessary to permit preparation of financial statements in conformity with generally accepted principles;

(C) Adequate detail records shall be maintained to assure accountability for city and utility owned assets;

(D) Access to assets shall be permitted in accordance with management's authorization; and

(E) The recorded accountability for assets shall be compared with the existing assets at least every two years and appropriate action shall be taken with respect to any difference.

(Ord. 2044, passed 12-4-06; Am. Ord. 2044, passed 7-12-10)

CHAPTER 36: PERSONNEL

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DRUG AND ALCOHOL POLICY

§ 36.15 INTENT; PERSONS SUBJECT TO POLICY.

(A) The city has a strong commitment to provide a safe workplace for its employees and to establish programs which promote a high standard of employee health. Consistent with the commitment, the city has developed a drug and alcohol testing program/policy. The city's goal is to establish and maintain a work environment that is free from the adverse effects of drug and alcohol abuse.

(B) It is not the intent of the city to intrude into the private lives of our employees, but for employees to report for work in a condition that enables them to perform their duties without injury to

themselves or their fellow employees. An employee who is involved with drugs or alcohol off-the-job can have a negative input on performing his or her job.

(C) (1) Employees who request assistance in dealing with a personal drug or alcohol problem will receive help from a substance abuse professional (SAP). The SAP will have the right to refer the employee to an appropriate treatment resource that can best help the employee with his or her problem.

(2) Medical expense plan benefits will be available to eligible employees electing to participate in a substance abuse program and/or a rehabilitation program including follow up testing subject to the provisions of those plans. Anything not covered by the employee's medical plan will be the employee's responsibility.

(3) However, by volunteering for help, an employee cannot avoid disciplinary action for a violation of the policy that has already occurred. Employees will be given two opportunities to utilize the SAP for a drug/alcohol program. If an employee volunteers for treatment and does not complete the recommended program, the city has fulfilled its only obligation for treatments for an employee.

(4) Every employee covered by this policy will receive periodical drug/alcohol education information. A copy of this policy and listing of telephone numbers for SAP representatives will be posted on the bulletin board in the work area.

(D) Employees shall not use alcohol or illegal drugs at any time when it could affect their ability to perform their jobs. Any employee whose work performance, attendance or behavior on the job creates a reasonable doubt shall be required to report for a drug/alcohol screen test. This will be at the expense of the city, on city time.

(E) Before any applicant is hired, he or she shall be tested for the presence of illegal drugs and or alcohol. Any applicant who tests positive for illegal drugs and or alcohol will be rejected for employment.

(F) All city employees and applicants for employment will be subject to this policy.
(Ord. 1884, passed 11-6-96)

§ 36.16 OBJECTIVES.

The objectives of this policy are as follows:

(A) To provide for consistent and documented practices and procedures for pre-employment and employee drug screen and alcohol tests.

(B) To define circumstances when the city may require current employees to submit to drug and alcohol screen tests.

(C) To define actions that will be taken against an employee when a positive drug/alcohol screen test is reported. All city employees shall follow the city's substance abuse program or will be

terminated. If an employee tests positive any time after completing the substance abuse program and/or rehabilitation program it will be grounds for termination.

(Ord. 1884, passed 11-6-96)

§ 36.17 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADMINISTRATOR. Mayor.

ASSISTANT ADMINISTRATOR. Clerk-Treasurer.

DESIGNATED REPRESENTATIVE. The Board of Public Works and Safety, a member, a manager, a supervisor, a department head or an administrator's appointee for each department.

DRUG/ALCOHOL TEST. Any scientifically recognized method used to examine human fluids to detect the presence of a drug and or alcohol.

NIDA. National Institute Drug Act.

POST-ACCIDENT. Drug/alcohol testing may be performed following any accident.

PRE-EMPLOYMENT DRUG/ALCOHOL SCREEN TEST. A drug/alcohol screen test is required of all employment applicants who are offered employment.

RANDOM. Testing conducted on a random unannounced basis, determined by a highly qualified independent testing company and the city, by following the federal DOT regulation requirements in regard to commercial driver's license (CDL) holders and on all city employees. The percentage amount of random testing will be determined by the city and federal requirements.

REASONABLE SUSPICION DRUG/ALCOHOL TEST. Drug and alcohol screen tests that will be taken when facts and circumstances would cause any two management or designated appointees, using reasonable judgment, to believe that an employee is using or under the influence of drugs and/or alcohol.

RETESTED/RETESTING. Also known as split-sample. Testing done from original urinalysis procedure split into two separate vials.

(Ord. 1884, passed 11-6-96)

§ 36.18 POLICY.

It is the intent of the city to have a strong commitment to provide all employees with safe working conditions. This simply means that there is no place in our working environment for alcohol or drug

abuse. This policy will follow all federal DOT regulation requirements, in regard to CDL holders and city employee drug and alcohol policies. Implementation, tracking and record keeping of the alcohol and drug testing program will be controlled and supervised by a highly qualified independent testing company, designated by the city.

(Ord. 1884, passed 11-6-96)

§ 36.19 PERSONS SUBJECT TO THE TESTING PROGRAM.

The following are subject to testing:

(A) All applicants for employment.

(B) All employees as mandated by state and federal agencies and city ordinance.

(Ord. 1884, passed 11-6-96)

§ 36.20 PRE-EMPLOYMENT DRUG TESTING.

A drug screen test is required of applicants who are offered employment. If a testing sample is confirmed positive, the applicant will no longer be considered for employment.

(Ord. 1884, passed 11-6-96)

§ 36.21 RANDOM TESTING FOR ALL CITY EMPLOYEES.

Testing will be conducted on a random unannounced basis, determined by a highly qualified independent testing company and the city, by following the federal DOT regulation requirements in regard to CDL holders and all city employees. Random pools and percentage of employees tested will be predetermined by the Board of Works and the highly qualified independent testing company. All employees of the city remain in the random selection pools at all times, regardless of whether or not they have been previously selected for testing.

(Ord. 1884, passed 11-6-96)

§ 36.22 POST-ACCIDENT TESTING.

Both drug and alcohol testing will be performed following any accident for any employee being treated away from the scene by a hospital or clinic where probable cause warrants. Immediately following all vehicle accidents both drug and alcohol mandatory testing will be performed (per federal regulations).

(Ord. 1884, passed 11-6-96)

§ 36.23 NOTICE OF SCHEDULED TESTING.

(A) Employees who, in the judgment of management, are under the influence of drugs and/or alcohol while at work or whose job performance is being adversely affected by the abuse of drugs and/or alcohol may be tested without notice.

(B) All applicants for employment will be tested as part of the pre-employment process.

(C) Employees who are required to submit to a drug or alcohol test will be required to submit to the test immediately upon notification by an administrator or administrative representative.

(Ord. 1884, passed 11-6-96)

§ 36.24 SUBSTANCES COVERED BY THE TESTING POLICY.

(A) This testing policy will determine the presence of the following substances in the body:

- (1) Amphetamines;
- (2) Cannabinoids;
- (3) Cocaine;
- (4) Opiates; and
- (5) Phencyclidine.

(B) Consequently, the list may grow to reflect further change in both the legal and illegal drug markets.

(Ord. 1884, passed 11-6-96)

§ 36.25 TESTING PROCEDURES.

(A) *Drug testing.*

(1) *Two-stage testing.* The city will employ the two-stage testing program because of the consequences of a positive test results on employees. Urine samples will be analyzed by a highly qualified independent laboratory which has been selected by the city.

(2) *Retested/retesting; split-sample.* Testing is done from an original urinalysis procedure and split into two separate vials. Any applicants or employees who test positive have the right to have their sample retested. The retesting will be done at the individual's expense. Request for retesting must be sent to a medical review officer (MRO), in writing, within 72 hours of notification of the positive result. Prior to retesting a certified check or money order for the cost of retesting must be received in the office

of the independent testing company within five calendar days of receipt of certified mail billing. If not received within five calendar days the request for retesting will be null and void.

(3) *Sequence of testing.* All samples will be tested according to the following sequence.

(a) All samples will first be subjected to an enzyme multiplied immunoassay test (EMIT) screening process.

(b) Those samples having a negative screen (no illegal or illicitly used substances present) will be considered to have "passed" the test and no further testing will be done on the sample.

(c) Those samples that test positive on the first screen will be tested more extensively by means of gas chromatography/mass spectrometry (GCMS).

(d) If the confirmatory GCMS test is negative, the sample will be considered to have passed and no further action will be taken.

(e) If the sample is confirmed to be positive by GCMS and reported as such by the MRO, the applicant or employee is entitled to have the sample retested by a different NIDA laboratory. The retesting will be done at the individual's expense.

(f) Upon retesting of the sample, the results are still positive the applicants for employment will not be further considered; however, employees may be reinstated in accordance with this policy.

(g) Employees who test positive for drugs shall be removed immediately from duty, without pay, and will be given the opportunity to receive help through the substance abuse program. Refusal of treatment or failure to complete the recommended treatment shall result in termination. Employees electing to enter a rehabilitation program must pass a drug test before returning to their position. Employees failing this test will be terminated from employment.

(h) If management believes an employee may be in violation of the policy, management may order the employee to submit to mandatory drug testing. Refusal to consent to the testing will result in termination.

(B) *Alcohol testing.*

(1) The sequence of testing is as follows:

(a) A screening test is conducted first. Any result less than 0.02 alcohol concentration is considered a "negative" test. If the alcohol concentration is 0.02 or greater, a second confirmation test must be conducted. The employee and the individual conducting the breath test, called a breath alcohol technician (BAT), must complete the alcohol testing form to ensure that the results are properly recorded. Any one testing between .02 and .0399 shall be relieved of duty without pay for 24 hours.

(b) The confirmation test, if required, must be conducted using an evidential breath testing (EBT) instrument that prints out the results, date and time, a sequential test number of the EBT to ensure the reliability of the results.

(c) If management believes an employee may be in violation of this policy, management may order the employee to submit to mandatory alcohol testing. Refusal to consent to the testing will result in termination of employment.

(d) The confirmation test results determine any action taken.

(2) Employees who test positive for alcohol between 0.02 and .0399 breath alcohol content (BAC) shall be removed immediately from duty, without pay, and may return to work after 24 hours. The employee will be given the opportunity to receive help from the SAP. This opportunity shall be offered a maximum of two times per employee, a third positive test shall result in termination of employment.

(3) Employees who test positive for alcohol .04 or greater breath alcohol content (BAC) shall be immediately removed from duty, without pay, and will be given the opportunity to receive help through the substance abuse program. Refusal of treatment or failure to complete the recommended treatment shall result in termination.

(4) EBT instruments will be used for confirmatory alcohol test.

(5) Only instruments on the list of approved devices in the Federal Register will be used.

(6) Only certified BATs may administer the alcohol tests.

(Ord. 1884, passed 11-6-96)

§ 36.26 PROCEDURAL GUIDELINES.

The alcohol/drug abuse policy/program provides that the city may:

(A) Inspect city property and premises for illegal drugs and prohibited alcohol beverages.

(B) Require an employee to undergo a drug or alcohol test to determine if he or she is under the influence of a drug or alcohol.

(C) If there is a violation, or suspicion of a violation, of this policy, the administrator, and or his designated appointee are to be immediately notified. They will take appropriate action and notify the Board of Public Works and Safety or law enforcement officials as deemed necessary.

(Ord. 1884, passed 11-6-96)

