

TITLE III: ADMINISTRATION

Chapter

- 30. CITY COUNCIL**
- 31. CITY OFFICIALS**
- 32. POLICE AND FIRE PROTECTION**
- 33. CITY BOARDS AND COMMISSIONS**
- 34. CIVIL SERVICE**
- 35. MAYOR'S COURT**
- 36. CIVIL ACTIONS AGAINST THE MUNICIPALITY**
- 37. PUBLIC RECORDS POLICY**
- 38. FINANCES**

CHAPTER 30: CITY COUNCIL

Section

- 30.01 City Council
- 30.02 Procedure and rules of Council
- 30.03 Ordinances and resolutions

§ 30.01 CITY COUNCIL.

- (A) Members and terms, see Charter Art. III, § 1.
- (B) Qualifications, see Charter Art. III, § 2.
- (C) Quorum and voting, see Charter Art. III, § 4.
- (D) Removals and vacancies, see Charter Art. III, § 5.
- (E) Salaries, see Charter Art. III, § 6.

(1985 Code, § 30.01)

§ 30.02 PROCEDURE AND RULES OF COUNCIL.

- (A) *Council meetings.*

(1) Regular Council meetings shall be held on the second and fourth Mondays of each month at the City Municipal Building, or at such other location within the city as may be deemed appropriate by the majority of City Council, except that during the months of June, July and August only one regular meeting per month shall be held which will be held on the fourth Monday of the month. In December there shall be one regular meeting of Council which shall be held during the first week of the month on the day designated by Council or, in an election year, as provided in division (A)(3) below. Notice of any change in location from the Municipal Building shall be provided at least 72 hours in advance of the meeting. If a holiday falls on a scheduled Monday, that meeting shall be held on Tuesday of the same week.

- (2) Regular Council meetings shall convene at 7:30 p.m.

Madeira - Administration

(3) Council, following its election, shall hold an installation and organizational meeting on the first day of December following such election. Unless notice is provided to the contrary, that meeting shall be at 7:30 p.m. at the Municipal Building.

(4) Special meetings, called pursuant to § 3, Art. III, of the City Charter shall be limited to those agenda items as listed on the notice of special meeting. All reasonable efforts shall be made to provide at least 72 hours' notice of a special meeting, but less advance notice shall not invalidate any action taken at the special meeting unless there is less than 24 hours' advance notice.

(B) *Executive sessions.*

(1) All official action shall be taken, and all deliberations upon official business shall be conducted by Council only in open meetings, except that Council may hold an executive session at a regular or special meeting by either placing the item on the agenda or, if not, previously placed on the agenda, by motion of Council and consent of majority present (but at least five votes to consent at a special meeting) and voting (notwithstanding any provisions under R.C. § 121.22), for the sole purpose of considering any of the following matters:

(a) To consider the appointment, employment, dismissal, discipline, promotion, demotion or compensation of a public employee or official, or the investigation of charges or complaints against a public employee or official;

(b)1. To consider the purchase of property for public purposes, or for the sale of property at competitive bidding, if premature disclosure of information would give an unfair competitive or bargaining advantage to a person whose personal or private interest is adverse to the general public interest. No public employee or official shall use this division (B)(1) as a subterfuge for providing covert information to prospective buyers or sellers. A purchase or sale of public property is void if the seller or buyer of the public property has received covert information from a member that has not been disclosed to the general public in sufficient time for other prospective buyers and sellers to prepare and submit offers; and

2. If the minutes of Council show that all meetings and deliberations of Council have been conducted in compliance with this section, any instrument executed by Council purporting to convey, lease or otherwise dispose of any right, title or interest in any public property shall be conclusively presumed to have been executed in compliance with this section insofar as title or other interest of any bona fide purchasers, lessors or transferees of the property is concerned.

(c) Conferences with any attorney for the city concerning disputes involving the city that are subject of pending, possible or imminent court action, or to discuss legal opinions of the Law Director on such matters that could reasonably involve future litigation;

(d) Preparing for, conducting or renewing negotiations or bargaining sessions with public employees concerning their compensation or other terms and conditions of their employment, as well as all other personnel matters where disclosure of the information is deemed detrimental to the city or an employee;

(e) Matters which are required to be kept confidential by federal law, federal rules or state statutes; and

(f) Specialized details of security arrangements where disclosure of the matters discussed might reveal information that could be used for the purpose of committing, or avoiding prosecution for, a violation of the law.

(2) Executive sessions shall be limited to Council members, except that those public officials or other persons who are necessary or helpful for the discussion of the subject matter of the executive session may be included upon invitation of the Council members requesting the executive session with the consent of a majority of Council.

(3) No Council member shall disclose or use, without appropriate authorization by the majority of Council members, any information acquired in the course of his or her official duties which has been clearly designated by the majority of Council members to him or her as confidential. Such confidential designation is warranted whenever the status of the proceedings, the circumstances under which the information was received or the nature of the information necessitates that its confidentiality is necessary to the proper conduct of governmental business.

(C) *Rules of procedure of Council meetings.* In addition to any legislative procedure prescribed by the City Charter, the following additional rules are hereby adopted for the expeditious functioning of Council.

(1) The agenda for all regular meetings of Council shall be prepared under the direction of the City Manager, who shall be responsible for its preparation and distribution. Those items on the Council agenda which are considered routine by the City Manager shall be marked with an asterisk (*) which shall signify that it is part of the consent agenda. All matters so marked shall be considered to be routine by the Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council member, citizen or interested party so requests, in which case, the item will be removed from the consent agenda and shall be acted upon as a separate matter, subject to discussion and debate. Such request to remove a matter from the consent agenda must be made prior to the Council vote approving all matters on the consent agenda. The matters listed with an asterisk (*) are considered to be routine and noncontroversial and no discussion or debate shall occur regarding any such matter unless it is removed from the consent agenda as stated above.

(2) A preliminary agenda for each regular meeting of Council shall be available to each Council member by 3:00 p.m. on the Wednesday before such regular meeting. A Council member may have additional items of business included on the agenda by requesting the City Manager to so include them, but should notify the City Manager no later than 12:00 noon on the Thursday preceding the regular meeting. The City Manager, on his or her own initiative, may include on the agenda any item of business he or she considers a proper subject for Council consideration so long as it appears on the agenda which was delivered to the Council members as set forth herein. The Law Director may have topics or legislation placed on the agenda which are required by law or are within his or her special knowledge as being essential for the proper operation of the city. Any revision of the agenda shall be available to Council members at the Municipal Building no later than 3:00 p.m. on the Friday before the regular

meeting. All documents, including ordinances, resolutions and such written reports of the City Manager and committees of Council shall be available with this agenda.

(3) In order to provide reasonable advance notice to the public about matters to be considered, members of Council may not introduce ordinances or resolutions which were not included on the agenda which was available on the Friday preceding the Council meeting unless in compliance with the following procedures:

(a) The proposed legislation must be reviewed by the Law Director and the City Manager. If they shall determine that it would be detrimental to the interests of the city not to permit the matter to be added to the agenda, then the City Manager shall cause the notification described in division (C)(3)(b) below to occur;

(b) Notification of the additional item is made to all interested parties without undue delay and notice is also provided by posting at the Municipal Building; and

(c) The legislation shall be introduced as a motion to amend the agenda. That motion must receive the votes of four Council members (even if less than seven members are present). Only then will the legislation be added to the agenda for consideration at the meeting.

(4) Minutes of previous meetings need not be read in full, but any member may suggest corrections of such minutes which shall be acted upon by Council before approval of the entire minutes. After such corrections are considered, the Chair shall announce that the minutes stand approved as written. Thereafter, corrections to the minutes may only be made by a vote of not less than five Council members.

(5) Ordinances and resolutions shall be read aloud by title only unless any Council member requests that it be read in full. Attachments or exhibits to ordinances or resolutions need not be read aloud in full unless specifically requested by any Council member. The Clerk of Council shall read ordinances and resolutions as directed by the Chair. The vote on any ordinance, resolution or motion shall be by voice on roll call. The vote on the election or confirmation of the appointment of any person to any office shall be by voice on roll call as aforesaid. The Clerk shall call the roll in order that alters the sequence of votes by Council members.

(D) *The Chair; powers and duties.*

(1) *Roll call.* The Mayor, or in his or her absence, the Vice-Mayor, shall take the chair at the hour appointed for Council to meet, and shall immediately call the members to order. The roll shall then be called by the Clerk, or shall enter in the minutes of the meeting the names of the members present. In the absence of a quorum at the time appointed for a meeting, the members present may, by a majority vote of those present, take a recess or recesses and direct the Clerk to procure the attendance of absent members.

(2) *Temporary Chairperson.* In case of absence of the Mayor and Vice-Mayor, the Clerk shall call Council to order and call the roll of the members. If a quorum is found to be present, Council shall proceed to elect, by a majority vote of those present, a Chairperson of the meeting, to act until the Mayor or Vice-Mayor appears.

(3) *Decision of the Chair.* The Chair shall preserve decorum and decide all questions of order. The Chair may call such recesses during a Council meeting as the Chair may deem appropriate.

(4) *Votes.* All questions shall be stated and put by the Chair and it shall not be in order for members to explain their votes during the call of the roll.

(5) *Presiding officer; leaving Chair.* The presiding officer at a meeting may call any other member to take his or her place in the Chair, but the substitution shall not extend beyond adjournment. **PRESIDING OFFICER** means either the Mayor, Vice-Mayor or Chairperson of the meeting.

(6) *Motions to be stated by withdrawal.* When a motion is made and seconded, it shall be stated by the Clerk before debate. Any member may demand that it be reduced to writing. A motion may not be withdrawn by the mover without the consent of the member who seconded it.

(E) *Members: duties and privileges.*

(1) *Addressing Chair.* Every member speaking to a question or making a motion, shall address the Chair. Members addressing Council shall confine themselves to the question under debate and avoid personalities.

(2) *Voting.* Every member present when a question is put shall vote either yes, no or abstain.

(3) *Excusal during meeting.* Any member desiring to be excused while Council is in session, shall obtain such permission from the Chair.

(F) *The agenda.*

(1) *Transaction of Council business.* Council shall transact its business in the following order:

- (a) Call to order by Mayor or Vice-Mayor;
- (b) Invocation;
- (c) Pledge of Allegiance;
- (d) Roll call by Clerk;
- (e) Approval of agenda, including adoption of consent agenda items;

Madeira - Administration

(f) At regular Council meetings, approval of minutes of preceding meetings or meetings of special Council meeting has been held;

(g) Presentation of notices of other meetings or events;

(h) Permission to address Council by members of audience. The Chairperson may limit addresses to five minutes per person. Persons shall identify themselves and provide their residential address in writing delivered to the Clerk before being recognized by the Chair. At meetings with unusually large attendance, the Chair may impose such additional rules as are deemed appropriate from time to time based on business before Council and the number of persons wishing to address Council. The Chair shall discourage debate between Council members and members of the audience, but shall refer matters raised during this session to the appropriate committee, or public official. The Chair shall, whenever possible, announce at the outset any guidelines or limitations to be imposed during this part of the agenda;

(i) Communications received:

1. Mayor;
2. Members of Council; and
3. Other officers.

(j) Reports of standing committees:

1. Administration and Personnel;
2. Budget and Finances;
3. Public Works;
4. Safety and Senior Services;
5. Legislative Review and Insurance;
6. Economic Development;
7. Parks and Recreation;
8. Reports of any special committees; and
9. Additional reports or announcements of Council members.

(k) Ordinances;

(l) Resolutions;

(m) Old business;

(n) New business;

(o) An executive session may be placed on the agenda in any order deemed appropriate for the orderly conduct of business by Council; and

(p) Adjournment.

(2) *Special order.* Any subject may be placed in a special order on the agenda of Council with the consent of a majority of the members present.

(G) *Committees.*

(1) *Appointment.* The Mayor shall appoint all committees of Council. The Mayor shall consult individually with all members of Council prior to any such appointments.

(2) *Standing committee.* Standing committees shall consist of a Chairperson and two members. An alternative member may be appointed to each committee but shall not attend committee meetings unless specifically invited by other committee members, provided the total Council members present do not exceed three. The duties of the standing committees of Council shall be established by the Mayor but shall in no event delegate to any committee any decision-making or rule-making power vested in Council as a whole. The duties and responsibilities shall be limited to fact finding, investigation and recommendation to Council. The standing committees shall be as follows:

(a) *Administration and Personnel.* Responsible for reviewing staff levels, contract issues, salary benefit packages; include the performance review of Council's appointed employees and Civil Service Commission;

(b) *Budget and Finances.* Responsible for working with the Treasurer in reviewing the annual budget, capital improvement financing and other finance-related matters;

(c) *Public Works.* Responsible for reviewing all city proposed capital improvements projects, Public Works Department procedures/programs and other public works related matters;

(d) *Law and Safety.* Responsible for reviewing all Police/Fire Department issues and services, staffing levels and other related matters; responsible for reviewing all proposed legislation of counsel having the force and effect of law; and responsible for reviewing the city's insurance coverage;

(e) *Economic Development*. Responsible for reviewing any project, zone changes, other issue or concept as it relates to the impact on expanding the city's economic base; to include but not be limited to subdivisions, commercial developments or expansions and annexations; and

(f) *Parks and Recreation*. Responsible for reviewing any issues regarding park and/or recreation services, recreation programs, park development and planning park capital improvement projects. Responsible for senior citizen services.

(3) *Special committee*.

(a) The Chair may, at its discretion or, upon action of a majority of Council members (four votes) establish special committees of Council for a temporary time period.

(b) Special committees shall consist of not more than three members of Council and may be established for any purpose not in conflict with the responsibilities of standing committees.

(4) *Meetings of standing and special committees*. Standing and special committees shall meet on call of the committee Chairperson or any two members.

(5) *Limitation of powers*. Standing and special committees shall not be vested with the rule-making or decision-making power of Council, but shall function as an investigative body that shall report and recommend to Council regarding the matters referred to it.

(6) *Reports*. The committees will study and report back to Council its findings and recommendations regarding any issue referred to the committees by Council. Reports are to be in writing. Minority reports are permitted.

(7) *Relieving from further consideration*. Upon motion, Council may, by a majority vote, relieve a standing or special committee of further consideration of a matter referred to it, and order the same placed on the agenda.

(8) *Major public improvement*. Any committee investigating or studying any project that could lead to a major public improvement shall consult with the Planning Commission.

(H) *General*.

(1) *Procedure in absence of rule*. In the absence of a rule to govern a point of procedure the Council shall establish the rule.

(2) *Tie vote*. In case of a tie in votes on any proposal, the proposal shall be considered lost.

(3) *Anonymous communications*. Unsigned communications shall not be introduced in Council meetings.

(4) *Recognition by Chair.* No Council member, official or member of the audience shall speak during a Council meeting without having first been recognized by the Chair, except at the beginning of a meeting as provided elsewhere in this section.

(1985 Code, § 30.02) (Ord. 89-92, passed 2-19-1990; Ord. 94-04, passed 2-7-1994; Ord. 95-78, passed 12-11-1995; Ord. 96-08, passed 1-22-1996; Ord. 96-40, passed 8-26-1996; Ord. 97-27, passed 7-28-1997)

Cross-reference:

Meetings of Council, see Charter Art. III, § 3

§ 30.03 ORDINANCES AND RESOLUTIONS.

Time of taking effect, see Charter Art. XI, § 1.
(1985 Code, § 30.03)

CHAPTER 31: CITY OFFICIALS

Section

City Officials

- 31.01 Mayor
- 31.02 Vice-Mayor
- 31.03 Manager and Deputy Manager
- 31.04 Authority when Manager position is vacant
- 31.05 Clerk-Treasurer
- 31.06 Law Director
- 31.07 Architectural Review Officer
- 31.08 Finance Director

General Provisions

- 31.20 Appointment and removal of officials
- 31.21 Creation and abolishment of offices
- 31.22 Personal interest
- 31.23 Official bonds
- 31.24 Temporary absence from office

CITY OFFICIALS

§ 31.01 MAYOR.

Election and powers, see Charter Art. III, § 7.
(1985 Code, § 31.01)

§ 31.02 VICE-MAYOR.

Election, see Charter Art. III, § 8.
(1985 Code, § 31.02)

§ 31.03 MANAGER AND DEPUTY MANAGER.

(A) *Manager.* Appointment and duties, see Charter Art. IV.

(B) *Deputy Manager.* Appointment and duties, see Charter Art. VI, § 2. The City Manager is hereby authorized to fill the vacancy and employ said person in accordance with the terms attached to Ordinance 89-02 as Schedule A which is hereby adopted by reference as if fully set out herein. Copies are on file in the City Manager's office at the City Municipal Building.
(1985 Code, § 31.03) (Ord. 89-02, passed 1-25-1989)

§ 31.04 AUTHORITY WHEN MANAGER POSITION IS VACANT.

During the period after the effective date of the Charter of this municipality and prior to the appointment of a Manager as required by the Charter, and during all subsequent periods between the end of term of any particular Manager (whether the termination is by reason of death, resignation, removal or otherwise) and the appointment of his or her successor:

(A) It shall not be necessary for warrants for the expenditure of municipal funds to be countersigned;

(B) Council shall have authority to make appointments, suspensions and removals of the Chief of Police and the heads of all departments, and all personnel subordinate to it, but subject to such restrictions as may be imposed by the Charter relative to civil service; and to authorize expenditures; and

(C) The Clerk shall prepare the annual budget and appropriation ordinance if then necessary, and shall have authority to issue licenses and permits required by ordinance, and to execute and deliver contracts and to make purchases as directed by Council.
(1985 Code, § 31.04)

§ 31.05 CLERK-TREASURER.

(A) The offices and duties of the Clerk and of the Treasurer of the municipality are combined into a single office, to be known as the office of Clerk-Treasurer.

(B) The salary of the Clerk-Treasurer for performance of all the duties of that office shall be as set from time to time by Council.
(1985 Code, § 31.05)

Charter reference:

Clerk, see Charter Art. V, § 1

Treasurer, see Charter Art. V, § 2

Combination of offices, see Charter Art. V, § 4

§ 31.06 LAW DIRECTOR.

Appointment and duties, see Charter Art. V, § 3.
(1985 Code, § 31.06)

§ 31.07 ARCHITECTURAL REVIEW OFFICER.

For provisions concerning the Architectural Review Officer, see Ch. 161.
(1985 Code, § 31.07)

§ 31.08 FINANCE DIRECTOR.

The position of Finance Director/Tax Commissioner is hereby created.
(1985 Code, § 31.08) (Ord. 89-28, passed 6-3-1989)

GENERAL PROVISIONS

§ 31.20 APPOINTMENT AND REMOVAL OF OFFICIALS.

See Charter Art. VI, § 1.
(1985 Code, § 31.10)

§ 31.21 CREATION AND ABOLISHMENT OF OFFICES.

See Charter Art. VI, § 2.
(1985 Code, § 31.11)

§ 31.22 PERSONAL INTEREST.

See Charter Art. XIV, § 2.
(1985 Code, § 31.12)

§ 31.23 OFFICIAL BONDS.

See Charter Art. XIV, § 3.
(1985 Code, § 31.13)

§ 31.24 TEMPORARY ABSENCE FROM OFFICE.

(A) *Purpose.* The purpose of this section is to provide for the continuity of governmental functions when either the Clerk-Treasurer or Manager of the city is temporarily absent from office. The intent of this section is to provide a mechanism that will allow designated persons to perform the functions of the Clerk-Treasurer or Manager in a manner that is consistent with the City Charter and which clarifies the responsibility for actions taken when either the City Manager or the Clerk-Treasurer is not available.

(B) *Manager.*

(1) The Manager, in accordance with § 2, Art. IV of the Charter, may by letter filed with the Clerk, designate a qualified person, subject to the approval of Council, to perform the duties of Manager during his or her temporary absence from office. If the Manager does not designate a person or designates a person or persons other than those approved by this section, then the City Council, in accordance with the Charter, may either approve the alternative appointment or appoint a qualified person to perform the duties of the Manager until the Manager returns or the disability ends.

(2) While it is not the intent of this section to in any way limit the Charter authority of the City Manager to designate any qualified person, Council hereby approves the appointment of the Chief of Police and the City Tax Commissioner, if so designated by the Manager, during the Manager's temporary absence from office, subject to the following limitations and guidelines.

(a) Copies of the required letter of designation which is filed with the Clerk shall be concurrently delivered to all Council members. A letter shall be deemed delivered when posted in the Clerk's and each Council member's mailbox in the Municipal Building. Additional telephonic notice is recommended but not required. Such letter shall provide that the Chief of Police and the Tax Commissioner are designated to perform the duties of the City Manager during his or her temporary absence or disability and he or she shall perform the duties in accordance with the guidelines and limitations set forth in this section. If the letter of designation authorizes any deviation from this section, then Council must consider by separate action whether it so approves.

(b) The letter of designation shall limit authority of designees to perform only such duties as are essential and which duties or actions cannot be reasonably deferred until the return of the Manager. The Tax Commissioner shall be designated as the responsible person for signing checks and approving purchase orders during the Manager's absence. All other duties and decisions of the City Manager shall be performed by the Chief of Police.

(c) The letter of designation shall withhold authority of the Tax Commissioner to approve expenditures or sign checks unless such action has been specifically authorized in said letter or is deemed essential for the preservation of the health, safety and welfare of the community and its citizens or employees of the city by both the Tax Commissioner and the Chief of Police.

(d) The designees shall maintain a file or a log of all actions taken in the performance of the duties of the City Manager as well as those matters specifically deferred until the return of the

Manager. The designees may consult with other public officials and advise Council members or request Council action as the designees deem appropriate.

(3) The Manager shall review all actions taken on his or her behalf. The Manager is hereby authorized to ratify and affirm any action of any public official if it is determined that it was the City Manager's responsibility or duty. Such ratification and affirmation shall be in writing and shall validate the action as if the City Manager had acted in the first instance. Any such ratification and affirmation shall be reported to Council without undue delay. However, it is not the intent of this section to require that the City Manager ratify or affirm any specific action taken by any public official if the action is deemed inappropriate or illegal.

(C) *Clerk-Treasurer.*

(1) Council recognizes that the Charter makes no specific provisions for the transfer of the duties of the Clerk-Treasurer when the Clerk-Treasurer is temporarily absent from office or disabled.

(2) Subject to the provisions and limitations set forth here, Council hereby designated the Assistant to the Clerk-Treasurer to perform certain duties if the Clerk-Treasurer is temporarily absent from office or is deemed disabled. The Clerk-Treasurer shall be considered temporarily absent from office during such times as is identified in writing which is delivered to the City Manager and/or the Mayor. Council may also designate the Clerk-Treasurer as temporarily absent from office or disabled if it has received reasonable information that permits Council to make that determination. In such event, Council hereby designates the Assistant to the Clerk-Treasurer as the Acting Clerk-Treasurer to perform such duties as are necessary to maintain continuity of the performance of the duties required to be performed by the Clerk-Treasurer.

(3) Upon the return of office by the Clerk-Treasurer, the Clerk-Treasurer shall review all actions taken on his or her behalf by the Acting Clerk-Treasurer. The Clerk-Treasurer is hereby authorized to ratify and affirm any action of any public official if it is determined that it was the Clerk-Treasurer's responsibility or duty. Such ratification and affirmation shall be in writing and shall validate the action as if the Clerk-Treasurer had acted in the first instance. Any such ratification and affirmation shall be reported to Council without undo delay. However, it is not the intent of this action to require the Clerk-Treasurer to ratify or affirm any specific action taken by any public official including the Acting Clerk-Treasurer, if the action is deemed inappropriate or illegal.

(1985 Code, § 31.14) (Ord. 91-93, passed 12-2-1991; Ord. 96-09, passed 2-26-1996)

CHAPTER 32: POLICE AND FIRE PROTECTION

Section

Police Protection

- 32.01 Police Department authorized
- 32.02 Duties and functions
- 32.03 Chief of Police
- 32.04 Lieutenants of police
- 32.05 Patrol officer
- 32.06 Police Clerk Dispatcher
- 32.07 Police Clerk
- 32.08 School guard
- 32.09 Auxiliary police unit established

Fire Protection

- 32.20 Fire protection

POLICE PROTECTION

§ 32.01 POLICE DEPARTMENT AUTHORIZED.

The Police Department is established in accordance with Art. IX, §§ 1 and 2, of the City Charter and in accordance with the Constitution and the laws of the state.
(1985 Code, § 32.01) (Ord. 90-85, passed 12-17-1990)

§ 32.02 DUTIES AND FUNCTIONS.

The Police Department shall provide police services within the jurisdictional limits of the municipality, including the preservation of the peace, the protection of persons and property and the enforcement of law. The Department shall be under the direction of the Chief of Police, who shall report to the Manager for administrative purposes.
(1985 Code, § 32.02) (Ord. 90-85, passed 12-17-1990)

§ 32.03 CHIEF OF POLICE.

The position of the Chief of Police is in the unclassified service of the city. The Chief shall be well qualified to do and perform the duties of supervising the Police Department, preparing the rules and regulations of the Department, securing the proper training of the patrol officers and carrying out such other duties as are appropriate for the proper supervision of the operation of the Police Department. (1985 Code, § 32.03) (Ord. 90-85, passed 12-17-1990)

§ 32.04 LIEUTENANTS OF POLICE.

There shall be positions of Lieutenants of police. Such Lieutenants shall be well qualified to do and perform the duties of first line shift supervisors. The positions of Lieutenants of police shall be in the classified service of the city. Such Lieutenants shall perform such other duties and assume such responsibilities as shall be designated or assigned by the Chief of Police. (1985 Code, § 32.04) (Ord. 90-85, passed 12-17-1990)

§ 32.05 PATROL OFFICER.

There shall be positions of patrol officers in the Police Department. Such positions shall be created in the classified service of the city. Patrol officers shall be well qualified to perform the duties of a patrol officer and shall perform such other duties and assume such responsibilities as shall be designated or assigned by his or her superiors. (1985 Code, § 32.05) (Ord. 90-85, passed 12-17-1990)

§ 32.06 POLICE CLERK DISPATCHER.

There is hereby created a position of Police Clerk Dispatcher which shall be in the classified service of the city. The Police Clerk Dispatcher shall be well qualified to do and perform the duties of this position and shall perform such other duties and assume such responsibilities as shall be designated or assigned by his or her superiors. (1985 Code, § 32.06) (Ord. 90-85, passed 12-17-1990)

§ 32.07 POLICE CLERK.

There is hereby created in the unclassified service of the city the part-time position of Police Clerk. The Police Clerk shall be well qualified to do and perform the duties of a Police Clerk and shall perform such other duties and assume such other responsibilities as shall be designated or assigned by the Chief of Police or his or her superiors. (1985 Code, § 32.07) (Ord. 90-85, passed 12-17-1990)

§ 32.08 SCHOOL GUARD.

There is hereby created in the unclassified service of the city the position of school guard. The school guard shall be well qualified to do and perform such duties as assigned by the Chief of Police which provide for the safe conduct of school children at roadway crossings. This shall be a part-time position.

(1985 Code, § 32.08) (Ord. 90-85, passed 12-17-1990)

§ 32.09 AUXILIARY POLICE UNIT ESTABLISHED.

(A) An auxiliary police unit is established within the Police Department of the city. The City Manager shall be the executive head of the unit and shall make all appointments of officers to and removals of officers from the unit. The Manager shall prescribe rules and regulations for the organization, training, administration, control and conduct of the unit and the members thereof. The members of the unit shall be volunteers and shall not be entitled to receive compensation as officers thereof or for any services or duties performed by them while acting as officers thereof except for reimbursement of expenses as may be specifically prescribed by the Manager, and, in such event, the Manager shall also prescribe the amount of reimbursement for such expenses.

(B) Officers of the auxiliary police unit shall and are hereby vested with all police powers including the power to pursue, arrest and detain persons violating the law of the state and ordinances of the city in accordance with such written policies and regulations as may be approved by the City Manager and Chief of Police.

(C) The City Manager shall state the period for which the officer or officers are to serve and the power vested in the officers. However, the Manager shall have the authority to re-deputize any officer upon expiration of the term.

(1985 Code, § 32.09) (Ord. 90-85, passed 12-17-1990; Ord. 92-14, passed 4-6-1992)

FIRE PROTECTION

§ 32.20 FIRE PROTECTION.

(A) Authority to organize Fire Department, see Charter Art. IX, § 3.

(B) Contracts with other municipalities, see Charter Art. IX, § 3.

(1985 Code, § 32.10) (Ord. 90-85, passed 12-17-1990)

Cross-reference:

Fire Prevention Code, see Ch. 91

CHAPTER 33: CITY BOARDS AND COMMISSIONS

Section

Parks and Recreation Board

- 33.01 Land set aside for public playground, swimming pool and park
- 33.02 Parks and Recreation Board established
- 33.03 Terms of Board
- 33.04 Recommendations of Board
- 33.05 Recreation and park employees; scope of authority
- 33.06 Concession privileges; changes and fees

Planning Commission

- 33.20 Appointment
- 33.21 Powers and duties
- 33.22 Action of Council necessary
- 33.23 Appeals

Community Reinvestment Area Housing Council

- 33.35 Establishment and appointment
- 33.36 Reinvestment Area No. 1
- 33.37 Tax exemptions

Senior Commission

- 33.50 Establishment and composition
- 33.51 Authority
- 33.52 Chair; agenda; meetings

Charter reference:

Planning Commission, see Charter Art. VII

Cross-reference:

City parks, see Ch. 94

Comprehensive park and recreation plan, see Ch. 155

Planning Commission, see Ch. 154

PARKS AND RECREATION BOARD**§ 33.01 LAND SET ASIDE FOR PUBLIC PLAYGROUND, SWIMMING POOL AND PARK.**

The land conveyed to the city by the Board of Education of the Madeira City School District by deed recorded in Deed Book 2705, page 120, of the records of Hamilton County, Ohio, and the land acquired by the city, known as the McDonald Commons, and the land acquired by the city known as the Nellie V. Hosbrook Bird Sanctuary, are hereby designated and set apart for use as a public playground, playfield, swimming pool and for other public park and recreational purposes. Any additional land acquired by the city for recreational purposes shall be subject to this subchapter.

(1985 Code, § 33.01) (Ord. 1552, passed 10-5-1981; Ord. 05-02, passed 1-24-2005)

Cross-reference:

City parks, see Ch. 94

Comprehensive park and recreation plan, see Ch. 155

§ 33.02 PARKS AND RECREATION BOARD ESTABLISHED.

There is hereby established a Parks and Recreation Board to be known as the Parks and Recreation Board of the city. Said Board shall consist of not more than 15 voting members and one non-voting member. All of the members shall be appointed by the City Council. One of those appointments shall be the Chairperson of the City Council's Parks and Recreation Committee, who shall be the only member of Council on the Board. The Recreation Director or the City Manager shall be an ex officio non-voting member of the Board.

(1985 Code, § 33.02) (Ord. 1552, passed 10-5-1981; Ord. 89-50, passed 9-5-1989; Ord. 90-68, passed 9-17-1990; Ord. 91-85, passed 11-4-1991; Ord. 11-23, passed 10-10-2011)

§ 33.03 TERMS OF BOARD.

(A) All members of the Parks and Recreation Board shall hereafter be appointed for a term of two years. Council shall appoint or reappoint members upon expiration of the present terms of office. If a member resigns or a membership on the Board becomes vacant for any reason, Council shall appoint a member for the unexpired balance of the term. The Parks and Recreation Board shall elect a Chairperson annually.

(B) All voting members of the Board shall serve without pay. Each vacancy on the Board, occurring otherwise than by expiration of a term, shall be for the unexpired portion of the term and shall be filled in the same manner as though it had been created by expiration of a term. Any member missing three consecutive meetings may be removed from the Board by the Chairperson's recommendation to Council.

Council, at the next regular meeting after receipt of the Chairperson's recommendation, may veto such recommendation or it shall become final.

(1985 Code, § 33.03) (Ord. 1552, passed 10-5-1981; Ord. 89-50, passed 9-5-1989; Ord. 90-68, passed 9-17-1990; Ord. 91-85, passed 11-4-1991; Ord. 05-02, passed 1-24-2005)

§ 33.04 RECOMMENDATIONS OF BOARD.

(A) The Parks and Recreation Board shall, from time to time, prepare and submit plans, programs and recommendations relative to public recreation and public parks, and any and all other recreational facilities of the city, whether on or in public grounds or buildings owned or hereafter acquired by the city or on or in privately owned lands or buildings, the right to the use of which for public recreational purposes is granted by the owners thereof, of public play and recreational activities at such facilities and on such grounds and in such buildings under the control of the Board of Education as such Board of Education may permit to be used for such activities.

(B) The Board shall in addition, make studies upon its own initiative or at the request of City Council and/or at the request of the Council Parks and Recreation Committee. All recommendations and reports are to be directed to the City Council Parks and Recreation Committee. All reports and recommendations must then be submitted to the City Council within 90 days of their receipt by the Parks and Recreation Committee of Council.

(1985 Code, § 33.04) (Ord. 1552, passed 10-5-1981)

§ 33.05 PARKS AND RECREATION EMPLOYEES; SCOPE OF AUTHORITY.

All public recreational and park employees of the city shall be hired by the City Manager and shall be under his or her control as fully as the employees of any other department of the city. The Board shall have only such functions as are described in this subchapter and shall have no powers not granted or provided by the ordinances of the city.

(1985 Code, § 33.05) (Ord. 1552, passed 10-5-1981)

§ 33.06 CONCESSION PRIVILEGES; CHANGES AND FEES.

(A) The City Manager shall have the power and authority to grant concession privileges at the various grounds and other places of public recreation where games, entertainment and recreational affairs are held, and to charge fees for the use of an attendant to assist with city-owned recreational equipment and cleaning the park shelters and/or concession stands.

(B) In accordance with division (A) above, the following rules and regulations shall be established for reserving the park shelters at McDonald Commons and Sellman Park and the concession stand at Sellman Park.

(1) Reservations shall be accepted as of January 1 for the current calendar year.

(2) Shelter houses and concession stand may be reserved beginning the first weekend in May through the last weekend in October.

(3) Reservations are on a first come/first serve basis. However, no reservation is approved until a written application and appropriate fees have been received.

(4) Cancellations must be made at least two weeks prior to the date the shelter or concession stand is to be used in order to receive a refund of the fee paid.

(C) Shelter fees are as follows if the applicant chooses to pay a fee for the use of city-owned recreational equipment which includes the provision of an attendant on duty to assist with the signing out of this equipment and cleaning:

(1) Reservation of four to six hours: \$35.

(2) Reservation of six to eight hours: \$60.

(3) Reservation of eight or more hours: \$80.

(4) The city reserves the right to recover the cost for damages to the shelter and/or park properties.

(D) Concession stand attendant fees are as follows.

(1) A mandatory deposit of \$50 is required for reservation of the Sellman Park concession stand. This deposit covers the provision of a concession stand attendant that must be on duty to assist with the usage of the equipment and to ensure the proper clean-up procedures are followed once the usage time of the concession stand has expired. Upon evaluation and inspection of the concession stand area following the applicant's requested reservation, and deeming the area satisfactory for future usage, one-half of the deposit amount (\$25) will be refunded.

(2) It is required by the city that every applicant carry his or her own liability insurance policy in the amount of \$100,000, which will cover any property damage arising out of the use of the facility. The applicant will provide proof of insurance and provide a certificate which names the city as an additional insured. This provision may be waived at the discretion of the City Manager.

(E) Proof of residency or employment shall be required at the time reservation applications are submitted.

(1985 Code, § 33.06) (Ord. 1552, passed 10-5-1981; Ord. 91-18, passed 2-20-1991; Ord. 04-17, passed 4-26-2004; Ord. 05-02, passed 1-24-2005)

Cross-reference:

City parks, see Ch. 94

PLANNING COMMISSION

§ 33.20 APPOINTMENT.

See Charter Art. VII, § 1.
(1985 Code, § 33.10)

§ 33.21 POWERS AND DUTIES.

See Charter Art. VII, § 2.
(1985 Code, § 33.11)

§ 33.22 ACTION OF COUNCIL NECESSARY.

See Charter Art. VII, § 3.
(1985 Code, § 33.12)

§ 33.23 APPEALS.

See Charter Art. VII, § 4.
(1985 Code, § 33.13)

Cross-reference:

Planning Commission, see Ch. 154

COMMUNITY REINVESTMENT AREA HOUSING COUNCIL

§ 33.35 ESTABLISHMENT AND APPOINTMENT.

(A) There is hereby established a Community Reinvestment Area Housing Council for Community Reinvestment Area No. 1.

(B) The Mayor shall appoint two members, the City Council shall appoint two members and the Planning Commission shall appoint one member. The majority of the foregoing members shall appoint two additional members who shall be residents within the city. Their term shall be for three years. An unexpired term resulting from a vacancy in the Housing Council shall be filled in the same manner as

the initial appointment was made. The Housing Council shall make an annual inspection of any properties in the area for which an exemption has been granted under R.C. § 3735.67.

(C) City Council shall appoint the Housing Officer for the city.
(1985 Code, § 33.20) (Res. 21-91, passed 10-7-1991)

§ 33.36 REINVESTMENT AREA NO. 1.

(A) Community Reinvestment Area No. 1 is established as described in Exhibit A attached to Resolution 21-91, passed October 7, 1991 and incorporated by reference.

(B) Community Reinvestment Area No. 1 is one in which housing facilities or structures of historical significance are located and new housing and repair of existing facilities or structures are discouraged.

(1985 Code, § 33.21) (Res. 21-91, passed 10-7-1991)

§ 33.37 TAX EXEMPTIONS.

Within Community Reinvestment Area No. 1, tax exemptions for improvements to real property as described in R.C. § 3735.67 may be granted. For the construction of improvements to every existing dwelling, or commercial or industrial structure located in the area, Council has determined that an exemption may be granted for up to ten years.

(1985 Code, § 33.22) (Res. 21-91, passed 10-7-1991)

SENIOR COMMISSION

§ 33.50 ESTABLISHMENT AND COMPOSITION.

The Senior Commission of the city is hereby established for the purposes and in accordance with the guidelines set forth herein. The Commission shall be comprised of 11 members serving for two-year terms, however six of the original appointees shall serve for three years during the initial term. Thereafter, all terms will be for two years. The appointment for initial terms or for the balance of unexpired terms shall be by a majority of Council members present at a Council meeting. While consideration shall be given to including occupational therapists, physical therapists, social workers, individuals trained in geriatrics and possibly a school representative on the Commission, appointees shall be at the sole discretion of the decision of City Council. All such appointees shall serve at the pleasure of the City Council.

(1985 Code, § 33.30) (Res. 02-08, passed 5-27-2008)

§ 33.51 AUTHORITY.

The Senior Commission shall be an advisory body to City Council and, as such, it shall have no budget or policy-making authority. The Senior Commission may also, from time to time, be consulted with and provide advice to both the Planning Commission, the Parks and Recreation Board and the general public on matters related to senior issues. The Commission will be involved in investigation, communication, advising and education of issues related to seniors in the city.

(1985 Code, § 33.31) (Res. 02-08, passed 5-27-2008)

§ 33.52 CHAIR; AGENDA; MEETINGS.

The members of the Senior Commission shall elect from its members a Chair of the Senior Commission whose duty shall be to chair the meetings of the Senior Commission. The Senior Commission shall initiate its own agenda consistent with identifying problems and recommending solutions to senior related matters. In addition, it shall address, investigate and provide recommendations to matters referred to it by City Council from time to time. The Senior Commission shall be a public body and hold all meeting in accordance with the Ohio Sunshine Laws. The Senior Commission shall, as it deems necessary, develop its own by-laws and other guidelines for establishing the agenda for its meetings as well as other rules for conducting its meetings as it determines to be necessary. The City Council reserves unto itself, as it does with all committees, commissions and boards, to reconstitute or otherwise provide goals and objectives for the Senior Commission as it may determine to be necessary for the good of the community from time to time.

(1985 Code, § 33.32) (Res. 02-08, passed 5-27-2008)

CHAPTER 34: CIVIL SERVICE

Section

34.01 Civil service rules and regulations adopted by reference

Charter reference:

Civil service, see Charter Art. VIII

§ 34.01 CIVIL SERVICE RULES AND REGULATIONS ADOPTED BY REFERENCE.

The City Civil Service Commission will be governed by the civil service rules and regulations attached to Ordinance 88-31, passed June 6, 1988, and which are adopted by reference and incorporated as a part of this code as if fully set out herein. A copy of the civil service rules and regulations are on file with the City Clerk.

(1985 Code, § 34.01)

CHAPTER 35: MAYOR'S COURT

Section

- 35.01 Witness fees
- 35.02 "Half-day's attendance" defined
- 35.03 Contempt of court
- 35.04 Electronically monitored house arrest
- 35.05 Police and/or Mayor's Court Computer Fund

§ 35.01 WITNESS FEES.

Each witness in a criminal case shall receive the following fees:

(A) Six dollars for each half day's attendance at Mayor's Court, to be taxed in the bill of costs; and

(B) Each witness shall also receive \$0.10 for each mile necessarily traveled to and from his or her place of residence to the place of giving testimony, to be taxed in the bill of costs.
(1985 Code, § 35.01) (Ord. 1590, passed 6-7-1982)

§ 35.02 "HALF-DAY'S ATTENDANCE" DEFINED.

As used in this chapter, a *HALF-DAY'S ATTENDANCE* means a day on which a witness is required or requested to be present at a proceeding, regardless of whether or not he or she actually testifies.

(1985 Code, § 35.02) (Ord. 1590, passed 6-7-1982)

§ 35.03 CONTEMPT OF COURT.

Any person appearing before the Mayor's Court who acts unruly or disobeys a direct order of the court shall be guilty of contempt of court and may be fined for such contempt. The contempt will be treated as a fourth degree misdemeanor and punished according to § 130.99.

(1985 Code, § 35.03) (Ord. 1634, passed 5-16-1983) Penalty, see § 130.99

§ 35.04 ELECTRONICALLY MONITORED HOUSE ARREST.

(A) Any or all of the term of imprisonment authorized under the ordinances of the city may be served by means of electronically monitored house arrest, in the sole discretion of the Mayor. In such case, the Mayor shall determine the number of days of actual imprisonment, the number of days of electronically monitored house arrest, and whether any of the days of actual imprisonment shall be suspended on the condition of successful completion of the incarceration by electronically monitored house arrest. The sum of the days of actual imprisonment plus the days of electronically monitored house arrest shall not exceed the stated maximum number of days of imprisonment for that particular offense.

(B) No individual may serve a term of imprisonment by electronically monitored house arrest unless he or she first executes an appropriate agreement made available to all such defendants, whereby the defendant agrees to pay the cost of the system (or, in the sole discretion of the Mayor, such portion of the cost as he or she can afford to pay) and agrees to abide by all of the rules and regulations of the electronically monitored house arrest procedure. The agreement shall provide that no credit for suspended days of actual incarceration shall be granted unless the defendant successfully completes all of the days of the electronically monitored house arrest.

(C) Any person, knowing that he or she is under the restrictions of electronically monitored house arrest, shall not purposely break or attempt to break such detention, or purposely violate any of the requirements of the detention. Whoever violates this section shall be deemed to have violated the terms of the suspended sentence, both fines and incarceration, and shall be required to appear in court and show cause why the full suspended sentence should not be imposed.

(1985 Code, § 35.04) (Ord. 90-82, passed 2-20-1991)

§ 35.05 POLICE AND/OR MAYOR'S COURT COMPUTER FUND.

(A) A special revenue fund, Police and/or Mayor's Court Computer Fund is hereby established to enable the city to collect \$5 from every ticket issued in conjunction with the Mayor's Court.

(B) The City Manager is hereby authorized to make expenditures from the Fund for any lawful purpose in furtherance of purchasing, operating and maintaining the Mayor's Court and/or Police Department computer system.

(1985 Code, § 35.05) (Ord. 04-20, passed 6-28-2004)

CHAPTER 36: CIVIL ACTIONS AGAINST THE MUNICIPALITY

Section

- 36.01 Definitions
- 36.02 Nonliability of municipality; exceptions
- 36.03 Defenses and immunities
- 36.04 Limitation of actions
- 36.05 Satisfaction of judgments
- 36.06 Provision of employees' defense; consent judgments
- 36.07 Liability insurance
- 36.08 Certain actions unaffected

§ 36.01 DEFINITIONS.

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

EMERGENCY CALL. A call to duty, including but not limited to communications from citizens, police dispatches and personal observations by peace officers of inherently dangerous situations that demand an immediate response on the part of a peace officer.

EMPLOYEE. An officer, agent, employee or servant, whether or not compensated or full-time or part-time, who is authorized to act and is acting within the scope of his or her employment for a political subdivision. The term does not include an independent contractor and does not include any individual engaged by a school district pursuant to R.C. § 3319.301. The term includes any elected or appointed official of a political subdivision. The term also includes a person who has been convicted of or pleaded guilty to a criminal offense and who has been sentenced to perform community service work in a political subdivision whether pursuant to R.C. § 2951.02 or otherwise, and a child who is found to be a delinquent child and who is ordered by a juvenile court pursuant to R.C. § 2152.19 or 2152.20 to perform community service or community work in a political subdivision.

GOVERNMENTAL FUNCTION.

(1) A function of a political subdivision that is specified in division (2) of this definition or that satisfies any of the following:

(a) A function that is imposed upon the state as an obligation of sovereignty and that is performed by a political subdivision voluntarily or pursuant to legislative requirement;

(b) A function that is for the common good of all citizens of the state; or

(c) A function that promotes or preserves the public peace, health, safety or welfare, that involves activities that are not engaged in or not customarily engaged in by nongovernmental persons, and that is not specified in this section as a proprietary function.

(2) The term includes but is not limited to the following:

(a) The provision or nonprovision of police, fire, emergency medical, ambulance and rescue services or protection;

(b) The power to preserve the peace; to prevent and suppress riots, disturbances and disorderly assemblages; to prevent, mitigate and clean up releases of oil and hazardous and extremely hazardous substances as defined in R.C. § 3750.01; and to protect persons and property;

(c) The provision of a system of public education;

(d) The provision of a free public library system;

(e) The regulation of the use of, and the maintenance and repair of, roads, highways, streets, avenues, alleys, sidewalks, bridges, aqueducts, viaducts and public grounds;

(f) Judicial, quasi-judicial, prosecutorial, legislative and quasi-legislative functions;

(g) The construction, reconstruction, repair, renovation, maintenance and operation of buildings that are used in connection with the performance of a governmental function, including but not limited to office buildings and courthouses;

(h) The design, construction, reconstruction, renovation, repair, maintenance and operation of jails, places of juvenile detention, workhouses or any other detention facility, as defined in R.C. § 2921.01;

(i) The enforcement or nonperformance of any law;

(j) The regulation of traffic and the erection or non-erection of traffic signs, signals or control devices;

(k) The collection and disposal of solid wastes, as defined in R.C. § 3734.01, including but not limited to the operation of solid waste disposal facilities as “facilities” is defined in that section, and the collection and management of hazardous waste generated by households. As used in this division (2)(k), **HAZARDOUS WASTE GENERATED BY HOUSEHOLDS** means solid waste originally generated by individual households that is listed specifically as hazardous waste in or exhibits one or more characteristics of hazardous waste as defined by rules adopted under R.C. § 3734.12, but that is excluded from regulation as a hazardous waste by those rules;

(l) The provision or nonprovision, planning or design, construction or reconstruction of a public improvement, including but not limited to a sewer system;

(m) The operation of a job and family services department or agency, including but not limited to the provision of assistance to aged and infirm persons and to persons who are indigent;

(n) The operation of a health board, department or agency, including but not limited to any statutorily required or permissive program for the provision of immunizations or other inoculations to all or some members of the public; provided that a governmental function does not include the supply, manufacture, distribution or development of any drug or vaccine employed in any such immunization or inoculation program by any supplier, manufacturer, distributor or developer of the drug or vaccine;

(o) The operation of mental health facilities, mental retardation or developmental disabilities facilities, alcohol treatment and control centers and children's homes or agencies;

(p) The provision or nonprovision of inspection services of all types, including but not limited to inspections in connection with building, zoning, sanitation, fire, plumbing and electrical codes, and the taking of actions in connection with those types of codes, including but not limited to the approval of plans for the construction of buildings or structures and the issuance or revocation of building permits or stop work orders in connection with buildings or structures;

(q) Urban renewal projects and the elimination of slum conditions;

(r) Flood control measures;

(s) The design, construction, reconstruction, renovation, operation, care, repair and maintenance of a township cemetery;

(t) The issuance of revenue obligations under R.C. § 140.06;

(u) The design, construction, reconstruction, renovation, repair, maintenance and operation of any school athletic facility, school auditorium or gymnasium or any recreation area or facility, including but not limited to any of the following:

1. A park, playground or playfield;
2. An indoor recreational facility;
3. A zoo or zoological park;
4. A bath, swimming pool, pond, water park, wading pool, wave pool, water slide or other type of aquatic facility;
5. A golf course;

6. A bicycle motocross facility or other type of recreational area or facility in which bicycling, skating, skate boarding or scooter riding is engaged;

7. A rope course or climbing walls; and

8. An all-purpose vehicle facility in which all-purpose vehicles, as defined in R.C. § 4519.01, are contained, maintained or operated for recreational activities.

(v) The provision of public defender services by a county or joint county public defender's office pursuant to R.C. Chapter 120;

(w) 1. At any time before regulations prescribed pursuant to 49 U.S.C. § 20153 become effective, the designation, establishment, design, construction, implementation, operation, repair or maintenance of a public road rail crossing in a zone within a municipal corporation in which, by ordinance, the legislative authority of the municipal corporation regulates the sounding of locomotive horns, whistles or bells;

2. On and after the effective date of regulations prescribed pursuant to 49 U.S.C. § 20153, the designation, establishment, design, construction, implementation, operation, repair or maintenance of a public road rail crossing in such a zone or of a supplementary safety measure, as defined in 49 U.S.C. § 20153, at or for a public road rail crossing, if and to the extent that the public road rail crossing is excepted, pursuant to subsection (c) of that section, from the requirement of the regulations prescribed under subsection (b) of that section; and

(x) A function that the General Assembly mandates a political subdivision to perform.

LAW. Any provision of the Constitution, statutes or rules of the United States or of this state, provisions of charters, ordinances, resolutions and rules of political subdivisions and written policies adopted by boards of education. When used in connection with the "common law," this definition does not apply.

MOTOR VEHICLE. Has the same meaning as in R.C. § 4511.01.

POLITICAL SUBDIVISION or **SUBDIVISION.** A municipal corporation, township, county, school district or other body corporate and politic responsible for governmental activities in a geographic area smaller than that of the state. The term includes, but is not limited to, a county hospital commission appointed under R.C. § 339.14, board of hospital commissioners appointed for a municipal hospital under R.C. § 749.04, board of hospital trustees appointed for a municipal hospital under R.C. § 749.22, regional planning commission created pursuant to R.C. § 713.21, county planning commission created pursuant to R.C. § 713.22, joint planning council created pursuant to R.C. § 713.231, interstate regional planning commission created pursuant to R.C. § 713.30, port authority created pursuant to R.C. § 4582.02 or 4582.26 or in existence on December 16, 1964, regional council established by political subdivisions pursuant to R.C. Chapter 167, emergency planning district and joint emergency planning district designated under R.C. § 3750.03, joint emergency medical services district created pursuant to R.C. § 307.052, a fire and ambulance district created pursuant to R.C. § 505.375, joint interstate

emergency planning district established by an agreement entered into under that section, and a county solid waste management district and joint solid waste management district established under R.C. § 343.01 or 343.012, a community school established under R.C. Chapter 3314, the county or counties served by a community-based correctional facility and program or district community-based correctional facility and program established and operated under R.C. §§ 2301.51 through 2301.58, a community-based correctional facility and program or district community-based correctional facility and program that is so established and operated, and the facility governing board of a community-based correctional facility and program or district community-based correctional facility and program that is so established and operated.

PROPRIETARY FUNCTION.

(1) A function of a political subdivision that is specified in division (2) of this definition or that satisfies both of the following:

(a) The function is not one described in divisions (1)(a) or (1)(b) of the definition of “governmental function” contained in this section, and is not one specified in division (2) of the definition of “governmental function” contained in this section; and

(b) The function is one that promotes or preserves the public peace, health, safety or welfare and that involves activities that are customarily engaged in by nongovernmental persons.

(2) The term includes, but is not limited to, the following:

(a) The operation of a hospital by one or more political subdivisions;

(b) The design, construction, reconstruction, renovation, repair, maintenance and operation of a public cemetery other than a township cemetery;

(c) The establishment, maintenance and operation of a utility, including but not limited to a light, gas, power or heat plant, a railroad, a busline or other transit company, an airport and a municipal water supply system;

(d) The maintenance, destruction, operation and upkeep of a sewer system; and

(e) The operation and control of a public stadium, auditorium, civic or social center, exhibition hall, arts and crafts center, band or orchestra or off-street parking facility.

PUBLIC ROADS. Public roads, highways, streets, avenues, alleys and bridges within a political subdivision. The term does not include berms, shoulders, rights-of-way or traffic-control devices unless the traffic-control devices are mandated by the *Ohio Manual of Uniform Traffic Control Devices*.

STATE. The State of Ohio, including but not limited to the General Assembly, the Supreme Court, the offices of all elected state officers, and all departments, boards, offices, commissions, agencies,

colleges and universities, institutions and other instrumentalities of the state. The term does not include political subdivisions.

(R.C. § 2744.01) (1985 Code, § 36.01) (Ord. 87-44, passed 9-8-1987; Ord. 88-39, passed 10-3-1988)

§ 36.02 NONLIABILITY OF MUNICIPALITY; EXCEPTIONS.

(A) Classifications of functions; nonliability; jurisdiction of the courts.

(1) For the purposes of this chapter, the functions of political subdivisions are classified as governmental functions and proprietary functions. Except as provided in division (B) of this section, a political subdivision is not liable in damages in a civil action for injury, death or loss to person or property allegedly caused by any act or omission of the political subdivision or an employee of the political subdivision in connection with a governmental or proprietary function.

(2) The defenses and immunities conferred under this chapter and R.C. Chapter 2744 apply in connection with all governmental and proprietary functions performed by the political subdivision and its employees, whether performed on behalf of the political subdivision or on behalf of another political subdivision.

(3) Subject to statutory limitations upon its monetary jurisdiction, the Courts of Common Pleas, the Municipal Courts and the County Courts have jurisdiction to hear and determine civil actions governed by or brought pursuant to this chapter.

(B) Exceptions. Subject to § 36.03 and R.C. §§ 2744.03 and 2744.05, a political subdivision is liable in damages in a civil action for injury, death or loss to person or property allegedly caused by an act or omission of the political subdivision or of any of its employees in connection with a governmental or proprietary function, as follows.

(1) Except as otherwise provided in this division (B), political subdivisions are liable for injury, death or loss to person or property caused by the negligent operation of any motor vehicle by its employees when the employees are engaged within the scope of their employment and authority. The following are full defenses to that liability:

(a) A member of a municipal Police Department or any other police agency was operating a motor vehicle while responding to an emergency call and the operation of the vehicle did not constitute willful or wanton misconduct;

(b) A member of a municipal Fire Department or any other firefighting agency was operating a motor vehicle while engaged in duty at a fire, proceeding toward a place where a fire is in progress or is believed to be in progress, or answering any other emergency alarm and the operation of the vehicle did not constitute willful or wanton misconduct; and

(c) A member of an emergency medical service owned or operated by a political subdivision was operating a motor vehicle while responding to or completing a call for emergency

medical care or treatment, the member was holding a valid commercial driver's license issued pursuant to R.C. Chapter 4506 or a driver's license issued pursuant to R.C. Chapter 4507, the operation of the vehicle did not constitute willful or wanton misconduct, and the operation complies with the precautions of R.C. § 4511.03.

(2) Except as otherwise provided in R.C. §§ 3314.07 and 3746.24, political subdivisions are liable for injury, death or loss to person or property caused by the negligent performance of acts by its employees with respect to proprietary functions of the political subdivisions.

(3) Except as otherwise provided in R.C. § 3746.24, political subdivisions are liable for injury, death or loss to person or property caused by its negligent failure to keep public roads in repair and other negligent failure to remove obstructions from public roads, except that it is a full defense to that liability, when a bridge within a municipality is involved, that the municipality does not have the responsibility for maintaining or inspecting the bridge.

(4) Except as otherwise provided in R.C. § 3746.24, political subdivisions are liable for injury, death or loss to person or property that is caused by the negligence of its employees and that occurs within or on the grounds of, and is due to physical defects within or on the grounds of, buildings that are used in connection with the performance of a governmental function, including but not limited to office buildings and courthouses, but not including jails, places of juvenile detention, workhouses or any other detention facility, as defined in R.C. § 2921.01.

(5) In addition to the circumstances described in divisions (B)(1) through (B)(4) of this section, a political subdivision is liable for injury, death or loss to person or property when civil liability is expressly imposed upon the political subdivision by a section of the Ohio Revised Code, including but not limited to R.C. §§ 2743.02 and 5591.37. Civil liability shall not be construed to exist under another section of this code or the Ohio Revised Code merely because that section imposes a responsibility or mandatory duty upon a political subdivision, because that section provides for a criminal penalty, because of a general authorization in that section that a political subdivision may sue and be sued, or because that section uses the term "shall" in a provision pertaining to a political subdivision.

(C) *Final order.* An order that denies a political subdivision or an employee of a political subdivision the benefit of an alleged immunity from liability as provided in this chapter or any other provision of the law is a final order.

(R.C. § 2744.02) (1985 Code, § 36.02)

§ 36.03 DEFENSES AND IMMUNITIES.

(A) In a civil action brought against a political subdivision or an employee of a political subdivision to recover damages for injury, death or loss to person or property allegedly caused by any act or omission in connection with a governmental or proprietary function, the following defenses or immunities may be asserted to establish nonliability:

(1) The political subdivision is immune from liability if the employee involved was engaged in the performance of a judicial, quasi-judicial, prosecutorial, legislative or quasi-legislative function;

(2) The political subdivision is immune from liability if the conduct of the employee involved, other than negligent conduct, that gave rise to the claim of liability was required by law or authorized by law, or if the conduct of the employee involved that gave rise to the claim of liability was necessary or essential to the exercise of powers of the political subdivision or employee;

(3) The political subdivision is immune from liability if the action or failure to act by the employee involved that gave rise to the claim of liability was within the discretion of the employee with respect to policy making, planning or enforcement powers by virtue of the duties and responsibilities of the office or position of the employee;

(4) The political subdivision is immune from liability if the action or failure to act by the political subdivision or employee involved that gave rise to the claim of liability, resulted in injury or death to a person who had been convicted of or pleaded guilty to a criminal offense and who, at the time of the injury or death, was serving any portion of his or her sentence by performing community service work for or in the political subdivision whether pursuant to R.C. § 2951.02 or otherwise, or resulted in injury or death to a child who was found to be a delinquent child and who, at the time of the injury or death, was performing community service or community work for or in a political subdivision in accordance with the order of a juvenile court entered pursuant to R.C. § 2152.19 or 2152.20, and if, at the time of that person's or child's injury or death, the person or child was covered for purposes of R.C. Chapter 4123 in connection with the community service or community work for or in the political subdivision;

(5) The political subdivision is immune from liability if the injury, death or loss to person or property resulted from the exercise of judgment or discretion in determining whether to acquire, or how to use, equipment, supplies, materials, personnel, facilities and other resources, unless the judgment or discretion was exercised with malicious purpose, in bad faith or in a wanton or reckless manner;

(6) In addition to any immunity or defense referred to in division (A)(7) of this section and in circumstances not covered by that division or R.C. §§ 3314.07 and 3746.24, the employee is immune from liability unless one of the following applies:

(a) His or her acts or omissions were manifestly outside the scope of his or her employment or official responsibilities;

(b) His or her acts or omissions were with malicious purpose, in bad faith or in a wanton or reckless manner;

(c) Civil liability is expressly imposed upon the employee by a section of the Ohio Revised Code. Civil liability shall not be construed to exist under another section of the Ohio Revised Code merely because that section imposes a responsibility or mandatory duty upon an employee, because that

section provides for a criminal penalty, because of a general authorization in that section that an employee may sue and be sued, or because the section uses the term “shall” in a provision pertaining to an employee.

(7) The political subdivision, and an employee who is the Chief Legal Officer of a political subdivision, an assistant of any such person, or a judge of a court of this state, is entitled to any defense or immunity available at common law or established by the Ohio Revised Code.

(B) Any immunity or defense conferred upon, or referred to in connection with, an employee by division (A)(6) or (A)(7) of this section does not affect or limit any liability of a political subdivision for an act or omission of the employee as provided in § 36.02 above.

(R.C. § 2744.03) (1985 Code, § 36.03) (Ord. 87-44, passed 9-8-1987)

§ 36.04 LIMITATION OF ACTIONS.

(A) An action against a political subdivision to recover damages for injury, death or loss to person or property allegedly caused by any act or omission in connection with a governmental or proprietary function, whether brought as an original action, cross-claim, counterclaim, third-party claim or claim for subrogation, shall be brought within two years after the cause of action accrues, or within any applicable shorter period of time for bringing the action provided by the Ohio Revised Code. The period of limitation contained in this division (A) shall be tolled pursuant to R.C. § 2305.16. This section applies to actions brought against political subdivisions by all persons, governmental entities and the state.

(B) In the complaint filed in a civil action against a political subdivision or an employee of a political subdivision to recover damages for injury, death or loss to person or property allegedly caused by an act or omission in connection with a governmental or proprietary function, whether filed in an original action, cross-claim, counterclaim, third-party claim or claim for subrogation, the complainant shall include a demand for a judgment for the damages that the judge in a nonjury trial or the jury in a jury trial finds that the complainant is entitled to be awarded, but shall not specify in that demand any monetary amount for damages sought.

(R.C. § 2744.04) (1985 Code, § 36.04)

§ 36.05 SATISFACTION OF JUDGMENTS.

(A) Real or personal property, and monies, accounts, deposits or investments of a political subdivision are not subject to execution, judicial sale, garnishment or attachment to satisfy a judgment rendered against a political subdivision in a civil action to recover damages for injury, death or loss to person or property caused by an act or omission of the political subdivision or any of its employees in connection with a governmental or proprietary function. Those judgments shall be paid from funds of the political subdivisions that have been appropriated for that purpose, but, if sufficient funds are not currently appropriated for the payment of judgments, the Fiscal Officer of a political subdivision shall certify the amount of any unpaid judgments to the taxing authority of the political subdivision for

inclusion in the next succeeding budget and annual appropriation measure and payment in the next succeeding fiscal year as provided by R.C. § 5705.08, unless any judgment of that nature is to be paid from the proceeds of bonds issued pursuant to R.C. § 133.14 or pursuant to annual installments authorized by divisions (B) or (C) of this section.

(B) (1) (a) As used in this section, ***THE ACTUAL LOSS OF THE PERSON WHO IS AWARDED THE DAMAGES*** includes all of the following:

1. All wages, salaries or other compensation lost by the person injured as a result of the injury, as of the date of judgment;
2. All expenditures of the person injured or of another person on behalf of the person injured for medical care or treatment, for rehabilitation services or for other care, treatment, services, products or accommodations that were necessary because of the injury;
3. All expenditures of a person whose property was injured or destroyed or of another person on behalf of the person whose property was injured or destroyed in order to repair or replace the property that was injured or destroyed;
4. All expenditures of the person injured or whose property was injured or destroyed or of another person on behalf of the person injured whose property was injured or destroyed in relation to the actual preparation or presentation of the claim involved; and
5. Any other expenditure of the person injured or whose property was injured or destroyed or of another person on behalf of the person injured or of the person whose property was injured or destroyed that the court determines represent an actual loss experienced because of the personal or property injury or property loss.

(b) As used in this section, ***THE ACTUAL LOSS OF THE PERSON WHO IS AWARDED THE DAMAGES*** does not include any of the following:

1. Wages, salaries or other compensation lost by the person injured as a result of the injury that are future expected earnings of that person;
2. Expenditures to be incurred in the future, as determined by the court, by the person injured or by another person on behalf of the person injured for medical care or treatment, for rehabilitation services or for other care, treatment, services, products or accommodations that will be necessary because of the injury;
3. Any fees paid or owed to an attorney for any services rendered in relation to a personal or property injury or property loss; and
4. Any damages awarded for pain and suffering, for the loss of society, consortium, companionship, care, assistance, attention, protection, advice, guidance, counsel, instruction, training or education of the person injured, for mental anguish or for any other intangible loss.

(2) (a) Except as specifically provided to the contrary in this section, a court that renders a judgment against a political subdivision as described in division (A) of this section and that is not in favor of the state may authorize the political subdivision, upon the motion of the political subdivision, to pay the judgment or a specified portion of the judgment in annual installments over a period not to exceed ten years, subject to the payment of interest at the rate specified in R.C. § 1343.03(A). A court shall not authorize the payment in installments under this division of any portion of a judgment or entire judgment that represents the actual loss of the person who is awarded the damages.

(b) Additionally, a court shall not authorize the payment in installments under this division (B) of any portion of a judgment or entire judgment that does not represent the actual loss of the person who is awarded the damages unless the court, after balancing the interests of the political subdivision and of the person in whose favor the judgment was rendered, determines that installment payments would be appropriate under the circumstances and would not be unjust to the person in whose favor the judgment was rendered. If a court makes that determination, it shall fix the amount of the installment payments in a manner that achieves for the person in whose favor the judgment was rendered the same economic result over the period as that person would have received if the judgment or portion of the judgment subject to the installment payments had been paid in a lump sum payment.

(C) At the option of a political subdivision, a judgment as described in division (A) of this section and that is rendered in favor of the state may be paid in equal annual installments over a period not to exceed ten years, without the payment of interest.

(R.C. § 2744.06) (1985 Code, § 36.05)

§ 36.06 PROVISION OF EMPLOYEES' DEFENSE; CONSENT JUDGMENTS.

(A) Defense of actions against employees.

(1) Except as otherwise provided in this division (A), a political subdivision shall provide for the defense of an employee, in any state or federal court, in any civil action or proceeding which contains an allegation for damages for injury, death or loss to person or property caused by an act or omission of the employee in connection with a governmental or proprietary function. The political subdivision has the duty to defend the employee if the act or omission occurred while the employee was acting in good faith and not manifestly outside the scope of his or her employment or official responsibilities. Amounts expended by a political subdivision in the defense of its employees shall be from funds appropriated for this purpose or from proceeds of insurance. The duty to provide for the defense of an employee specified in this division (A) does not apply in a civil action or proceeding that is commenced by or on behalf of a political subdivision.

(2) Except as otherwise provided in this division (A), a political subdivision shall indemnify and hold harmless an employee in the amount of any judgment, other than a judgment for punitive or exemplary damages, that is obtained against the employee in a state or federal court or as a result of a law of a foreign jurisdiction and that is for damages for injury, death or loss to person or property caused

by an act or omission in connection with a governmental or proprietary function, if at the time of the act or omission the employee was acting in good faith and within the scope of his or her employment or official responsibilities.

(B) *Consent judgments.*

(1) A political subdivision may enter into a consent judgment or settlement and may secure releases from liability for itself or an employee, with respect to any claim for injury, death or loss to person or property caused by an act or omission in connection with a governmental or proprietary function.

(2) No action or appeal of any kind shall be brought by any person, including any employee or a taxpayer, with respect to the decision of a political subdivision pursuant to division (B)(1) of this section whether to enter into a consent judgment or settlement or to secure releases, or concerning the amount and circumstances of a consent judgment or settlement. Amounts expended for any settlement shall be from funds appropriated for this purpose.

(C) *Failure to provide defense.* If a political subdivision refuses to provide an employee with a defense in a civil action or proceeding as described in division (A)(1) of this section, upon the motion of the political subdivision, the court shall conduct a hearing regarding the political subdivision's duty to defend the employee in that civil action. The political subdivision shall file the motion within 30 days of the close of discovery in the action. After the motion is filed, the employee shall have not less than 30 days to respond to the motion. At the request of the political subdivision or the employee, the court shall order the motion to be heard at an oral hearing. At the hearing on the motion, the court shall consider all evidence and arguments submitted by the parties. In determining whether a political subdivision has a duty to defend the employee in the action, the court shall determine whether the employee was acting both in good faith and not manifestly outside the scope of employment or official responsibilities. The pleadings shall not be determinative of whether the employee acted in good faith or was manifestly outside the scope of employment or official responsibilities. If the court determines that the employee was acting both in good faith and not manifestly outside the scope of employment or official responsibilities, the court shall order the political subdivision to defend the employee in the action.

(R.C. § 2744.07) (1985 Code, § 36.06)

§ 36.07 LIABILITY INSURANCE.

(A) (1) A political subdivision may use public funds to secure insurance with respect to its and its employees' potential liability in damages in civil actions for injury, death or loss to persons or property allegedly caused by an act or omission of the political subdivision or any of its employees in connection with a governmental or proprietary function. The insurance may be at the limits, for the circumstances, and subject to the terms and conditions, that are determined by the political subdivision in its discretion. The insurance may be for the period of time that is set forth in specifications for competitive bids or,

when competitive bidding is not required, for the period of time that is mutually agreed upon by the political subdivision and insurance company. The period of time does not have to be, but can be, limited to the fiscal cycle under which the political subdivision is funded and operated.

(2) (a) Regardless of whether a political subdivision procures a policy of liability insurance pursuant to division (A)(1) of this section or otherwise, the political subdivision may establish and maintain a self-insurance program relative to its and its employees' potential liability in damages in civil actions for injury, death, or loss to persons or property allegedly caused by an act or omission of the political subdivision or any of its employees in connection with a governmental or proprietary function. The political subdivision may reserve such funds as it deems appropriate in a special fund that may be established pursuant to an ordinance or resolution of the political subdivision and not subject to R.C. § 5705.12. The political subdivision may allocate the costs of insurance of a self-insurance program, or both, among the funds or accounts in the subdivision's treasury on the basis of relative exposure and loss experience. The political subdivision may require any deductibles under an insurance or self-insurance program, or both, to be paid from funds or accounts in the subdivision's treasury from which a loss was directly attributable. If it so chooses, the political subdivision may contract with any person, other political subdivision, or regional council of governments for purposes of the administration of the program.

(b) Political subdivisions that have established self-insurance programs relative to their and their employees' potential liability as described in division (A)(2)(a) of this section may mutually agree that their self-insurance programs will be jointly administered in a specific manner.

(B) The purchase of liability insurance, or the establishment and maintenance of a self-insurance program, by a political subdivision does not constitute a waiver of any immunity or defense of the political subdivision or its employees, except that the political subdivision may specifically waive any immunity or defense to which it or its employees may be entitled if a provision to that effect is specifically included in the policy of insurance or in a written plan of operation of the self-insurance program, or if any, the legislative enactment of the political subdivision authorizing the purchase of the insurance or the establishment and maintenance of the self-insurance program. Such a specific waiver shall be only to the extent of the insurance or self-insurance program coverage.

(C) The authorizations for political subdivisions to secure insurance and to establish and maintain self-insurance programs in this section are in addition to any other authority to secure insurance or to establish and maintain self-insurance programs that is granted pursuant to the Ohio Revised Code or the Ohio Constitution, and they are not in derogation of any other authorization.

(R.C. § 2744.08)

(D) If a political subdivision, pursuant to division (A)(2)(a) of this section or a joint self-insurance pool pursuant to R.C. § 2744.081, has allocated costs to, or required the payment of deductibles from, funds or accounts in the subdivision's treasury, the subdivisions's fiscal officer, pursuant to ordinance or resolution of the Legislative Authority, shall transfer amounts equal to those costs or deductibles from the funds or accounts of the subdivision's General Fund if both of the following occur:

(1) The subdivision requests payment from the employee responsible for the funds or accounts for those costs or deductibles;

(2) The employee receiving the request fails to remit payment within 45 days after the date of receipt of the request.

(E) The provisions of R.C. §§ 5705.14, 5705.15, and 5705.16 do not apply to transfers made pursuant to division (D) of this section.

(R.C. § 2744.082)

(1985 Code, § 36.07)

Statutory reference:

Joint municipal self-insurance pools, see R.C. § 2744.081

§ 36.08 CERTAIN ACTIONS UNAFFECTED.

This chapter does not apply to, and shall not be construed to apply to, the following:

(A) Civil actions that seek to recover damages from a political subdivision or any of its employees for contractual liability;

(B) Civil actions by an employee, or the collective bargaining representative of an employee, against his or her political subdivision relative to any matter that arises out of the employment relationship between the employee and the political subdivision;

(C) Civil actions by an employee of a political subdivision against the political subdivision relative to wages, hours, conditions or other terms of his or her employment;

(D) Civil actions by sureties and the rights of sureties, under fidelity or surety bonds; or

(E) Civil claims based upon alleged violations of the Constitution or statutes of the United States, except that the provisions of § 36.07 shall apply to such claims or related civil actions.

(R.C. § 2744.09) (1985 Code, § 36.08)

CHAPTER 37: PUBLIC RECORDS POLICY

Section

- 37.01 Introduction
- 37.02 Public records
- 37.03 Record requests
- 37.04 Costs for public records
- 37.05 E-mail
- 37.06 Failure to respond to public records request

§ 37.01 INTRODUCTION.

The city adopts this public records policy to reflect its belief that openness leads to a better informed citizenry, which leads to better government and better public policy. It is the policy of the city to strictly adhere to the state's Public Records Act. All exemptions to openness are to be construed in their narrowest sense and any denial of public records in response to a valid request must be accompanied by an explanation, including legal authority, as outlined in the Ohio Revised Code. If the request is in writing, the explanation must also be in writing.

(1985 Code, § 37.01) (Res. 05-08, passed 6-23-2008)

§ 37.02 PUBLIC RECORDS.

(A) The city, in accordance with the Ohio Revised Code, defines *RECORDS* as including the following: any document, paper, electronic (including but not limited to e-mail) or other format that is created or received by, or comes under the jurisdiction of a public office that documents the organization, functions, policies, decisions, procedures, operations or other activities of the office. All records of the city are public unless they are specifically exempt from disclosure under the Ohio Revised Code.

(B) It is the policy of the city that, as required by state law, records will be organized and maintained so that they are readily available for inspection and copying (See § 37.05 for the e-mail record policy). Record retention schedules are to be updated regularly and posted prominently.

(1985 Code, § 37.02) (Res. 05-08, passed 6-23-2008)

§ 37.03 RECORD REQUESTS.

Each request for public records should be evaluated for a response using the following guidelines.

(A) Although no specific language is required to make a request, the requester must at least identify the records requested with sufficient clarity to allow the public office to identify, retrieve and review the records. If it is not clear what records are being sought, the records custodian must contact the requester for clarification, and should assist the requestor in revising the request by informing the requester of the manner in which the office keeps its records.

(B) The requester does not have to put a records request in writing, and does not have to provide his or her identity or the intended use of the requested public record. It is the city's general policy that this information not be requested.

(C) Public records are to be available for inspection during regular business hours, with the exception of published holidays. Public records must be made available for inspection promptly. Copies of public records must be made available within a reasonable period of time. "Prompt" and "reasonable" take into account the volume of records requested; the proximity of the location where the records are stored; and the necessity for any legal review of the records requested.

(D) Each request should be evaluated for an estimated length of time required to gather the records. Routine requests for records should be satisfied immediately, if feasible to do so. Routine requests include but are not limited to meeting minutes (both in draft and final form), budgets, salary information, forms and applications, personnel rosters and the like. If fewer than 20 pages of copies are requested or if the records are readily available in an electronic format that can be e-mailed or downloaded easily, these should be made as quickly as the equipment allows. If more copies are requested, an appointment should be made with the requester on when the copies or computer files can be picked up. Each public official or employee responsible for responding to a public records request shall prepare, make available for inspection, and shall make copies of, if requested, the requested public records promptly, subject to that person's duties to respond to calls for other important city services, including emergency calls for services which relate to the preservation of the health and safety of people, and the preservation of property, within the community. All requests for public records must either be satisfied or be acknowledged in writing by the public office within a reasonable time following the office's receipt of the request. If a request is deemed significantly beyond "routine," such as seeking a voluminous number of copies or requiring extensive research, the acknowledgment must include the following:

- (1) An estimated number of business days it will take to satisfy the request;
- (2) An estimated cost if copies are requested; and
- (3) Any items within the request that may be exempt from disclosure.

(E) Any denial of public records requested must include an explanation, including legal authority. If portions of a record are public and portions are exempt, the exempt portions are to be redacted and the rest released. If there are redactions, each redaction must be accompanied by a supporting explanation, including legal authority.

(1985 Code, § 37.03) (Res. 05-08, passed 6-23-2008)

§ 37.04 COSTS FOR PUBLIC RECORDS.

Those seeking public records will be charged only the actual cost of making copies.

(A) The charge for paper copies is \$0.05 per page.

(B) The charge for downloaded computer files to a compact disc is \$1 per disc.

(C) There is no charge for documents e-mailed.

(D) Requesters may ask that documents be mailed to them. They will be charged the actual cost of the postage and mailing supplies.

(1985 Code, § 37.04) (Res. 05-08, passed 6-23-2008)

§ 37.05 E-MAIL.

Documents in electronic mail format are records as defined by the Ohio Revised Code when their content relates to the business of the office. E-mail is to be treated in the same fashion as records in other formats and should follow the same retention schedules.

(A) Records in private e-mail accounts used to conduct public business are subject to disclosure, and all employees or representatives of the city are instructed to retain their e-mails that relate to public business (see § 37.02 Public Records) and to copy them to their business e-mail accounts and/or to the office's records custodian.

(B) The records custodian is to treat the e-mails from private accounts as records of the public office, filing them in the appropriate way, retaining them per established schedules and making them available for inspection and copying in accordance with the Public Records Act.

(1985 Code, § 37.05) (Res. 05-08, passed 6-23-2008)

§ 37.06 FAILURE TO RESPOND TO PUBLIC RECORDS REQUEST.

The city recognizes the legal and non-legal consequences of failure to properly respond to a public records request. In addition to the distrust in government that failure to comply may cause, the city's

failure to comply with a request may result in a court ordering the city to comply with the law and to pay the requester attorney's fees and damages.

(1985 Code, § 37.06) (Res. 05-08, passed 6-23-2008)

CHAPTER 38: FINANCES

Section

Finance Department

38.01 Assistant Treasurer/Tax Commissioner, Finance/Tax Clerk and Finance/Tax Clerk II

Investment and Depository Policy

- 38.15 Scope
- 38.16 Objectives and guidelines
- 38.17 Authorized financial institutions and dealers and investments
- 38.18 Investments Advisory Committee
- 38.19 Safekeeping and custody
- 38.20 Authorization to sign policy

Funds

- 38.35 Police Explorer Donation Fund
- 38.36 Centennial Celebration Fund
- 38.37 Capital Improvement Water Distribution Fund

FINANCE DEPARTMENT

§ 38.01 ASSISTANT TREASURER/TAX COMMISSIONER, FINANCE/TAX CLERK AND FINANCE/TAX CLERK II.

(A) There is hereby created effective March 1, 2012 the positions of Assistant Treasurer/Tax Commissioner, Finance/Tax Clerk I and Finance/Tax Clerk II for the purpose of restructuring the Finance and Tax Departments of the city.

(B) The position descriptions for these new positions shall be as provided in the attached Exhibits A, B and C, which are adopted by reference and incorporated as a part of this code as if fully set out herein. A copy is on file with the City Clerk.

(Ord. 12-10, passed 2-27-2012)

INVESTMENT AND DEPOSITORY POLICY**§ 38.15 SCOPE.**

The Investment Advisory Committee hereby directs that the investing authority of this public entity shall reside with the Treasurer of the city in accordance with this investment policy. This policy is designed to cover all monies under the control of the city and those that comprise the core investment portfolio. Notwithstanding the policies detailed below, R.C. Chapter 135 will be adhered to at all times. (Res. 07-10, passed 7-26-2010)

§ 38.16 OBJECTIVES AND GUIDELINES.

The following investment objectives will be applied in the management of this public entity's funds.

(A) The primary objective shall be the preservation of capital and protection of principal while earning investment interest.

(B) In investing public funds, the Treasurer will strive to achieve a fair and safe average rate of return on the investment portfolio over the course of budgetary and economic cycles, taking into account state law, safety considerations and cash flow requirements.

(C) The investment portfolio shall remain sufficiently liquid to enable the Treasurer to meet reasonably anticipated operating requirements.

(D) The investment portfolio should be diversified in order to avoid incurring potential losses regarding individual securities which may not be held to maturity, whether by erosion of market value or change in market conditions.

(E) Investments may be redeemed or sold prior to maturity if the Treasurer determines that:

(1) Other more suitable investments can be obtained which would better serve the city's needs;
and/or

(2) The city has experienced an unexpected need for greater liquidity.

(F) Investments shall be made with the exercise of that degree of judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the probable safety of their capital as well as the probable income to be derived.

(G) Bank account relations will be managed in order to secure adequate services while minimizing costs. Deposits should be concentrated in single accounts except where audit control considerations dictate otherwise.

(Res. 07-10, passed 7-26-2010)

§ 38.17 AUTHORIZED FINANCIAL INSTITUTIONS AND DEALERS AND INVESTMENTS.

(A) Investment accounts may be maintained at financial institutions, United States Department of Treasury or dealers who are members of the National Association of Security Dealers (NASD). Allowable investments with maturities of five years or less include United States and federal agency and instrumentality obligations, money market accounts, repurchase agreements, banker acceptances, certificates of deposit and commercial paper (rated by two agencies in their two highest categories). Investment account holdings are not subject to public depository or collateral requirements as described in R.C. Chapter 135. Investment accounts should be protected by FDIC, FSLIC or SIPC.

(B) Permitted investments also include the State Treasurer's investment pool (Star Ohio) or other State Treasurer investment instruments.

(C) Securities purchased directly from a financial institution, United States Treasury or dealer under the terms of this policy and held by the city are not considered interim funds under a depository agreement as described in R.C. Chapter 135.

(D) Collateral pledged to secure repayment of public monies shall be those acceptable under R.C. §§ 135.18 and 135.181, with the exception that letters of credit issued by federal government agencies or instrumentalities shall not be acceptable collateral for city depositories.

(E) A list of authorized institutions and dealers shall be maintained with the investing authority. Additions and deletions to this list shall be made when deemed in the best interest of the investing authority.

(Res. 07-10, passed 7-26-2010)

§ 38.18 INVESTMENTS ADVISORY COMMITTEE.

The Budget and Finance Committee appointed by the Mayor of the city shall serve as the Investments Advisory Committee for the city and shall meet no fewer than two times a year. Specific areas of review include investment inventory, transactions and realized income. Changes to the investment policy shall be submitted to City Council for approval, and a copy filed with the State Auditor.

(Res. 07-10, passed 7-26-2010)

§ 38.19 SAFEKEEPING AND CUSTODY.

(A) Securities purchased for the city may be held in safekeeping by a qualified trustee (hereinafter referred to as a “custodian”), as provided in R.C. § 135.37. Securities held in safekeeping by a custodian will be evidenced by a statement describing such securities.

(B) The Treasurer or custodian may keep the city’s securities in:

(1) Federal Reserve Bank book entry form;

(2) Depository Trust Company (DTC) book entry form in the account of the custodian or the custodian’s correspondent bank; or

(3) Non-book entry (physical) securities held by the custodian or the custodian’s correspondent bank.

(C) All securities transactions will settle using standard delivery versus payment (DVP) procedures. The records of the custodian shall identify such securities in the name of the city.
(Res. 07-10, passed 7-26-2010)

§ 38.20 AUTHORIZATION TO SIGN POLICY.

The Treasurer is granted the authority to approve the investment policy on behalf of the city.
(Res. 07-10, passed 7-26-2010)

FUNDS**§ 38.35 POLICE EXPLORER DONATION FUND.**

(A) Special Revenue Fund SR-54 Police Explorer Donation Fund is hereby established to enable the city to collect donations for said purpose of supporting the Police Explorer program.

(B) The City Manager is hereby authorized to make expenditures from the Fund for any lawful purpose in furtherance of training and supplies for the Police Explorer program.
(Ord. 08-40, passed 12-8-2008)

§ 38.36 CENTENNIAL CELEBRATION FUND.

(A) Special Revenue Fund SR-55 Madeira Centennial Celebration Fund is hereby established to enable the city to collect donations for said purpose of supporting the centennial celebration.

(B) The City Manager is hereby authorized to make expenditures from the fund for any approved centennial celebration expense.

(Ord. 09-31, passed 12-1-2009)

§ 38.37 CAPITAL IMPROVEMENT WATER DISTRIBUTION FUND.

(A) There is hereby created the SR-87 Capital Improvement Water Distribution Fund to enable the city to account for the funds received from the Village of Indian Hill Water District.

(B) The City Manager is hereby authorized to make expenditures from this fund for the purpose of replacing and maintaining the water distribution system within the Indian Hill Water District.

(Ord. 13-07, passed 1-14-2012)

