

TITLE III: ADMINISTRATION

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CHAPTER 30: CITY GOVERNMENT; ORGANIZATION

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GENERAL PROVISIONS

§ 30.01 HOME RULE.

(A) The city hereby adopts the City “Home Rule” Ordinance pursuant to IC 36-1-3-1 et seq.

(B) The city may exercise any power or perform any function necessary to the public interest in the conduct of its internal affairs, which is not prohibited by the State Constitution or the United States Constitution, or denied or preempted by any other law or is not vested by any other law in any other city, county or state entity, special purpose district, or municipal or school corporation.

(C) The city shall support all actions, projects, and programs in the public interest of its citizens, if those actions, projects, and programs are authorized under “Home Rule” powers or the performance of those functions, are reasonable and practical under the circumstances, and if the financial support for them is forthcoming from the Council.

(D) The Council may budget and appropriate funds to provide for city membership and the membership of city elected and appointed officials and members of its boards, councils, departments or agencies in local, regional, state and national associations of a civic, educational or governmental nature, which have as their purpose the betterment and improvement of city operations.

(E) The Council may budget and appropriate funds to pay the expenses of duly authorized representatives to attend the meetings and functions of organizations to which the city belongs. ('86 Code, § 36-1-3-1) (Ord. 431B, passed 6-7-82; Am. Ord. 515, passed 4-1-85; Am. Ord. 2016-1542, passed 3-14-16)

Statutory reference:

Home rule, see IC 36-1-3-1

§ 30.02 SALARIES.

Salaries of city officials shall be in the amounts as established by ordinance of the City Council from time to time.

COMMON COUNCIL

§ 30.15 FIVE MEMBER COMMON COUNCIL.

The Common Council shall consist of five members, all of whom shall be elected at large. However, four members shall reside within the district for which they are elected and one member shall be an at large representative.

('86 Code, § 36-4-6-3(a)) (Ord. 435, passed 8-2-82)

§ 30.16 LEGISLATIVE DISTRICTS.

The city is hereby divided into election districts for the purpose of establishing representation on the Common Council.

(A) *District 1.* District 1 shall consist of all that portion of the city within the following territory: Beginning at the intersection of the centerline of East Market Street and the Salem Public Square; thence east with the centerline of East Market Street to its intersection with the centerline of North High Street; thence north along the centerline of North High Street to its intersection with the centerline of East Walnut Street; thence east along the centerline of East Walnut Street to its intersection with the centerline of North College Avenue; thence south along the centerline of North College Avenue to its intersection with the centerline of East Market Street; thence south along the centerline of South College Avenue to its intersection with the centerline of East Poplar Street; thence west with the centerline of East Poplar Street to its intersection with the centerline of South High Street; thence south with the centerline of South High Street to its intersection with the centerline of East Small Street; thence east along the centerline of East Small Street to its intersection with the CSX Railroad Track; thence northeasterly along the centerline of the CSX Railroad Track to its intersection with the centerline of East Market Street; thence east along the centerline of East Market Street to its intersection with Park Avenue; thence

south along the centerline of Park Avenue to its intersection with Highland Drive; thence south with the centerline of Highland Drive to its intersection with Old State Road 60; thence east along the centerline of East Old State Road 60 to its intersection with the centerline of South Fair Street; thence north with the centerline of South Fair Street to its intersection with East Market Street; thence east along the centerline of East Market Street to the city limits of Salem, Indiana, presently located at the northeast corner of Eastview Terrace Subdivision as described in Deed Book Q-5, Page 269, in the Office of the Recorder of Washington County, Indiana; thence generally south along the City Limits, as defined in various annexation ordinances, to the centerline of Botts Lane (Indiana State Highway 160); thence continue generally south along the City Limits, as described in various annexation ordinances, to the centerline of Jackson Street (Indiana State Highway 60); thence northwest along the centerline of Jackson Street (Indiana State Highway 60) to the current south boundary line of the City of Salem, Indiana, which is located on the south line of Section 22, Township 2 North, Range 4 East; thence west along the south boundary line of Salem, Indiana, to a point on the east line of the Westminster Farms Subdivision; thence southwest and north along the southern boundary of Westminster Farms Subdivision to a point at the southwest corner of the Pine Meadows Subdivision; thence west to the centerline of Aspen Drive; thence north along the centerline of Aspen Drive to its intersection with Jackson Street; thence continue westerly along the centerline of Jackson Street to its intersection with Highland Drive; thence east and then north along the center line of Highland Drive to its intersection with Tucker Street; thence west along the center line of Tucker Street to its intersection with Martinsburg Road; thence northwesterly along the center line of Martinsburg Road to its intersection with Caleb Street; thence west along the centerline of Caleb Street to its intersection with South High Street; thence north along the centerline of South High Street to its intersection with the centerline of Old State Road 160; thence west along the centerline of Old State Road 60 to its intersection with the centerline of South Main Street; thence north along the centerline of South Main Street to the place of beginning.

(B) *District 2.* District 2 shall consist of all that portion of the city within the following territory: Beginning at the intersection of the centerline of South Main Street and the Public Square; thence south along the centerline of South Main Street to its intersection with the centerline of Old State Road 60; thence east along the centerline of Old State Road 60 to its intersection with South High Street; thence south along the centerline of South High Street to its intersection with Caleb Street; thence east along the centerline of Caleb Street to its intersection with Martinsburg Road; thence southeasterly along the centerline of Martinsburg Road to its intersection with Tucker Street; thence east along the center line of Tucker Street to its intersection with Highland Drive; thence south and west along the centerline of Highland Drive to its intersection with the centerline of Jackson Street; thence southeast along the centerline of Jackson Street to its intersection with Aspen Drive; thence south along the centerline of Aspen Drive for its entire present length to the Salem City Limits; thence generally northwest and west along the City Limits of Salem, Indiana, as described in all pertinent annexation ordinances to the intersection of Martinsburg Road; thence continue west along the City Limits of Salem, Indiana, as described in all pertinent annexation ordinances to the centerline of South Main Street; thence west along the Corporate Limits of the City of Salem, Indiana, to the centerline of Becks Mill Road; thence southwesterly along Becks Mill Road to the City Limits of the City of Salem, Indiana; thence generally

northwest along the City Limits of Salem, Indiana, as described in all pertinent annexation ordinances, to the centerline of West Market Street; thence west along the centerline of West Market Street to the Salem City Limits, as established by all pertinent annexation ordinances; thence generally north along the Salem City Limits, as established by various annexation ordinances, to the centerline of West Mulberry Street (Indiana State Highway 56/60); thence east along the centerline of West Mulberry Street to its intersection with the centerline of North Harrison Street; thence south with the centerline of North Harrison Street to its intersection with the centerline of West Market Street; thence east along the centerline of West Market Street to the Salem Public Square; thence to the place of beginning.

(C) *District 3.* District 3 shall consist of all that portion of the city within the following territories: Beginning at the intersection of the centerline of North Main Street and the Public Square; thence north along the centerline of North Main Street to its intersection with the centerline of East Mulberry Street; thence east along the centerline of East Mulberry Street to its intersection with the centerline of North High Street; thence north along the centerline of North High Street to its intersection with the centerline of East Homer Street; thence west along the centerline of East Homer Street to its intersection with North Main Street; thence north along the centerline of North Main Street to the Salem City Limits; thence west along the Salem City Limits as described in all pertinent annexation ordinances (including Ordinances 2018-28 and 2018-29) to its intersection with North Shelby Street; thence [south] along the centerline of North Shelby Street to the Salem City Limits; thence west and south along the Salem City Limits, as described in all pertinent annexation ordinances, to the centerline of Cox Ferry Road; thence generally west along the Salem City Limits, as described in all pertinent annexation ordinances to the southwest corner of the real estate annexed by Ordinance #xxxx, thence south to the centerline of Indiana State Highway 60; thence southwest along the centerline of Indiana State Highway 60 to its intersection with West Mulberry Street (Indiana State Highway 56/60); thence east along the centerline of West Mulberry Street (Indiana State Highway 56/60) to its intersection with the centerline of North Harrison Street; thence south along the centerline of North Harrison Street to its intersection with the centerline of West Walnut Street; thence east along the centerline of West Market Street to the Salem Public Square; thence to the place of beginning.

(D) *District 4.* District 4 shall consist of all that portion of the city within the following described territory: Beginning at the intersection of the centerline of North Main Street and the Salem Public Square; thence north along the centerline of North Main Street to its intersection with the centerline of Mulberry Street; thence east along the centerline of East Mulberry Street to its intersection with the centerline of North High Street; thence north along the centerline of North High Street to its intersection with the centerline of East Homer Street; thence west along the centerline of East Homer Street to its intersection with North Main Street; thence north along the centerline of North Main Street

to the north City Limits of Salem, Indiana, as described in Ordinance 1044; thence east along the City Limits of Salem, Indiana, as described in the north boundary of the real estate annexed in Ordinance 1044A; thence south along the east boundary of the real estate annexed in Ordinance 1044A to the northwest corner of Rolling Way Subdivision; thence east along the City Limits of Salem, Indiana, as described in all pertinent annexation ordinances, to the centerline of North Jim Day Road; thence south along the centerline of North Jim Day Road to its intersection with East Hackberry Street (Indiana State Highway 56/60); thence southwesterly along the centerline of East Hackberry Street (Indiana State Highway 56/60) to the northeast corner of real estate annexed in Ordinance 1474; thence generally meandering south and east along the City Limits of Salem, Indiana, as described in all pertinent annexation ordinances, to the centerline of East Market Street; thence west along the centerline of East Market Street to its intersection with Fair Street; thence south along the centerline of South Fair Street to its intersection with the centerline of Old State Road 60; thence west along the centerline of Old State Road 60 to its intersection with Highland Drive; thence north along the centerline of Highland Drive to its intersection with Park Avenue; thence generally north along the centerline of Park Avenue to its intersection with East Market Street; thence west along the centerline of East Market Street to the centerline of the CSX Railroad Track; thence southwesterly along the centerline of the CSX Railroad Track to its intersection with East Small Street; thence southwesterly along the centerline of East Small Street to its intersection with South High Street; thence north along the centerline of South High Street to its intersection with East Poplar Street; thence east along the centerline of East Poplar Street to its intersection with South College Avenue; thence north along the centerline of College Avenue to its intersection with East Walnut Street; thence west along the centerline of East Walnut Street to its intersection with North High Street; thence south along the centerline of North High Street to its intersection with East Market Street; thence west along the centerline of East Market Street to the Public Square; thence to the place of beginning.

(‘86 Code, § 36-4-6-3(b)) (Ord. 323, passed 12-30-74; Am. Ord. 738, passed 2-10-92; Am. Ord. 1067, passed 1-8-02; Am. Ord. 1415, passed 2-13-12; Am. Ord. 2021-026, passed 12-13-21)

Cross-reference:

Annexations, see T.S.O. II

Statutory reference:

*Council election districts in third class cities having a population of less than 10,000,
see IC 36-4-6-5*

§ 30.17 COUNCIL MEETINGS.

The Council shall conduct its regular meetings on the second Monday of each month at 6:30 p.m. (‘86 Code, § 36-4-6-6(a)) (Ord. 2018-13, passed 6-11-18)

Statutory reference:

*Power to expel member or declare seat vacant; rules, see IC 36-4-6
Meetings of legislative body, see IC 36-4-6-7*

§ 30.18 LEGAL HOLIDAYS.

The designation of any legal holiday by the Council and Mayor for city employees shall not affect any action taken by the Council while in regular or special session. Any action taken by the Mayor on any holiday shall be valid for all purposes.

('86 Code, § 1-1-9-1)

Statutory reference:

Legal holidays, see IC 1-1-9-1

CHAPTER 31: CITY POLICIES

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- 31.03 Mileage reimbursement
- 31.04 Risk management policy
- 31.05 Returned checks and rejected electronic fund transfers
- 31.06 Variance policies
- 31.07 Materiality threshold for reporting to the State Board of Accounts

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- 31.15 Salem day

GENERAL PROVISIONS

§ 31.01 NONDISCRIMINATION POLICY.

(A) It is the policy of the city not to discriminate against any employee or applicant for employment due to the race, color, religion, sex, national origin, age, or handicap of that individual. This policy extends to all phases of employment and shall include, but not be limited to the following:

- (1) Employment, upgrading, demotion, or transfer;
- (2) Recruitment or recruitment advertising;
- (3) Lay-off or termination;
- (4) Rates of pay or other forms of compensation; and
- (5) Selection for training, including apprenticeship.

(B) It shall be the public policy of the city to support and encourage equal education and employment opportunities and equal access to and use of public accommodations and equal opportunity for the acquisition of real property in accordance with IC 22-9-1.

(C) The city designates the State Civil Rights Commission as the appropriate agency to implement the purposes and objectives of IC 22-9-1 and to enforce its provisions.
(‘86 Code, § 22-9-1-12.1) (Ord. 371, passed 12-4-78)

Cross-reference:

Fair housing, see Chapter 94

Hiring and promotions, see § 36.02

Statutory reference:

Local commissions authorized; powers; exclusivity of remedy; appeal, see IC 22-9-1-12.1

§ 31.02 ORGANIZATIONAL MEMBERSHIPS.

(A) The city may upon appropriate application and payment of dues become a member in the following organizations:

- (1) Administrative Resources Association;
- (2) ASEAN;
- (3) Aviation Association of Indiana;
- (4) Historic Southern Indiana;
- (5) Indiana Association of Animal Control;
- (6) Indiana Association of Building Officials;
- (7) Indiana Association of Cities and Towns;
- (8) Indiana Fire Chiefs Association;
- (9) Indiana League of Municipal Clerks and Clerk/Treasurers;
- (10) International Conference of Building Officials;
- (11) National Rifle Association; and
- (12) Water Environment Federation.

(B) Membership dues, fees and charges in the above named organizations shall be provided for in the approved budgets of the appropriate fund or department and relevant to the services provided by the

organization. Claims for such membership dues, fees and charges shall be paid upon presentation of an appropriate statement certified by a city employee working in the department or fund benefitted by membership in the organization.

(Ord. 773, passed 5-3-93)

Cross-reference:

Finance; city funds, see Chapter 33

§ 31.03 MILEAGE REIMBURSEMENT.

(A) City officials, employees and officers using their own motor vehicles, when necessary for the performance of their official duties, are entitled to a sum for mileage at a rate to be determined by the Common Council.

(B) The present mileage rate for those city officials, employees and officers using their own motor vehicles, when necessary for the performance of their official duties, shall be as set forth in § 36.28 of this code.

(Ord. 950, passed 8-10-98; Am. Ord. 1215, passed 2-14-06)

§ 31.04 RISK MANAGEMENT POLICY.

(A) All prospective employees of the city and its public utilities shall be subject to a review of their limited criminal history which shall be conducted under the provisions of IC 5-2-5-1 through 5-2-5-13.

(B) The driving records maintained by the Indiana Bureau of Motor Vehicles of all city employees who drive city vehicles shall be reviewed on an annual basis.

(C) The City Attorney shall develop a reciprocal law enforcement aid agreement for the Police Department and any other law enforcement agency to whom it offers mutual aid, and a reciprocal fire protection aid agreement for the Fire Department and any other fire protection agency to whom it offers mutual aid.

(Res. 2003-9, passed 8-12-03)

§ 31.05 RETURNED CHECKS AND REJECTED ELECTRONIC FUND TRANSFERS.

(A) A person who issues or delivers a check made payable to the city or one of its departments, boards, commissions or other agencies, which is dishonored by the financial institution upon which it is drawn, shall be mailed a notice by regular United States mail that the check has been dishonored. Any such check which is dishonored shall be subject to a service charge of \$20. The notice given hereunder shall be addressed to either the address printed on the check or the address given by the person in writing

to the payee at the time the check was issued or delivered. If the check which was dishonored was written for the purpose of paying the payor's utility account with the city, then the service charge may be added to the next utility bill of the payor after the service charge is imposed.

(B) A person who issues or delivers a payment by means of an electronic funds transfer made through the Automated Clearing House (ACH), which payment is rejected on account of the lack of the availability of funds from the person's account, shall be subject to a service charge of \$20. In addition to this \$20 service charge, the city may collect from that person the ACH rejection fee of \$15 charged by the electronic transaction processor to the city. If the electronic funds transfer made through ACH was made for the purpose of paying the payor's utility account with the city, then the service charge and ACH rejection fee may be added to the next utility bill of the payor after the service charge and rejection fee are imposed.

(C) If a person receiving a written notice pursuant to the provisions of division (A) does not pay the dishonored check plus the service charge within ten days after its date of mailing, then the check shall be referred to the Prosecuting Attorney of the county pursuant to the provisions of IC 36-1-8-13; provided, that the date of referral shall not be more than 90 days after the check was initially received by the city.

(D) If a person issues or delivers checks made payable to the city or one of its departments, boards, commissions or other agencies, which are dishonored by the financial institutions upon which they are drawn on two occasions within a six-month period, then the city and its officers and employees shall require that person to make future payments to the city or any of its departments, boards, commissions or other agencies, by means of cash or money order for a period of 12 months.

(Ord. 1166, passed 9-14-04; Am. Ord. 1255, passed 5-10-07; Am. Ord. 1289, passed 4-14-08; Am. Ord. 1491, passed 3-10-14)

§ 31.06 VARIANCE POLICIES.

(A) *Recognition of possibility of variances.* The city, while placing the highest level of trust in its officials, officers, and employees, recognizes that the possibility nevertheless exists that variances, losses, shortages, and thefts may occur. Variances, losses, and shortages may result even though there has been no inappropriate intent or action on the part of an official, officer, or employee.

(B) *Adoption of Internal Control Standards.* The city adopts the "Uniform Internal Control Standards for Indiana Political Subdivisions" (September, 2015) of the Indiana State Board of Accounts, and directs each department head to formulate and employ internal controls in accordance with that manual.

(C) *Oversight.* The city by and through its elected officials and its department heads shall oversee the city's internal control system.

(D) *Establishment and management.* The Mayor and the City Council shall establish and maintain an organizational structure, through policies, procedures, ordinances, and resolutions that assign responsibility, and delegate authority to achieve the city's objectives. This shall include and demonstrate a continued commitment to recruit, develop, and retain competent individuals and evaluate performance and hold individuals accountable for their internal control responsibilities.

(Ord. 2016-1543, passed 4-11-16)

§ 31.07 MATERIALITY THRESHOLD FOR REPORTING TO THE STATE BOARD OF ACCOUNTS.

(A) *Recognition of possibility of variances.* The city, while placing the highest level of trust in its officials, officers, and employees, recognizes that the possibility nevertheless exists that variances, losses, shortages, and thefts may occur. Variances, losses, and shortages may result even though there has been no inappropriate intent or action on the part of an official, officer, or employee.

(B) *Duty to report misappropriations.* City policy reiterates and adheres to I.C. 5-11-1-27(l), which provides that a city official, officer, or employee who has actual knowledge of or reasonable cause to believe that there has been a misappropriation of public funds or assets shall immediately send written notice of the misappropriation to the State Board of Accounts and the Washington County prosecuting attorney.

(C) *Materiality.* For the purpose of I.C. 5-11-1-27(j), a variance in accounting for public funds, whether believed to result from error, loss, shortage, or theft when the variance falls into any of the following categories it is considered "material" for the purpose of this section:

(1) *Cash.*

(a) A variance, loss, or shortage occurring once within any six month period of more than \$500.

(b) A variance, loss, or shortage occurring more than once within any six month period of more than \$100.

(2) *Assets other than cash.*

(a) A variance, loss, or shortage occurring once within any six month period of more than \$500.

(b) A variance, loss, or shortage occurring more than once within any six month period of more than \$100.

(Ord. 2016-1544, passed 4-11-16)

SPECIAL EVENTS

§ 31.15 SALEM DAY.

The fifteenth day of June is designated as Salem Day.
(‘86 Code, § 1-1-10-1)

CHAPTER 32: DEPARTMENTS, BOARDS, COMMISSIONS, AND THE LIKE

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BOARD OF PUBLIC WORKS AND SAFETY**§ 32.01 DESIGNATION AS GOVERNING BODY OF WATER WORKS, SEWAGE WORKS AND GARBAGE COLLECTION SERVICE.**

(A) The Board of Public Works and Safety of the city shall be the governing body of the Salem Water Works pursuant to the provisions of IC 8-1.5-3-3(a)(1) and shall exercise all power and authority over the Salem Water Works as set out in IC 8-1.5-3-1 through 8-1.5-3-15 and all statutes supplemental thereto or amendatory thereof.

(B) The Board of Public Works and Safety of the city shall remain the governing body of the Salem Sewage Works pursuant to the provisions of IC 36-9-23-3 and shall exercise all powers over the Salem Sewage Works pursuant to the provisions of IC 36-9-23-1 through 36-9-23-36 and all statutes supplemental thereto and amendatory thereof.

(C) The Board of Public Works and Safety of the city shall remain the governing body of the Salem Garbage Collection Service pursuant to the provisions of IC 36-9-30-7(a) and shall exercise all powers over the Salem Garbage Collection Service pursuant to the provisions of IC 36-9-30-1 through 36-9-30-36 and all statutes supplemental thereto and amendatory thereof.

(Ord. 629, passed 10-3-88)

Cross-reference:

Sewers, see Chapter 50

Solid waste disposal, see Chapter 51

Water, see Chapter 52

DEPARTMENT OF AVIATION**§ 32.15 ESTABLISHMENT.**

The City Department of Aviation is hereby established. The Department shall be under the control of a Board of five members, known as the Board of Aviation Commissioners, designated in this subchapter as “the Board” with no more than three members being of the same political party. ('86 Code, § 8-22-2-1(a)) (Ord. 388, passed 12-3-79; Am. Ord. 1280, passed 1-7-08)

Statutory reference:

Department of Aviation, see IC 8-22-2-1

§ 32.16 MEMBERSHIP; TERMS.

The members of the Board shall be appointed and serve the terms set forth by IC 8-22-2. ('86 Code, § 8-22-2-1(b)) (Ord. 388, passed 12-3-79)

§ 32.17 COMPENSATION.

The members of the Board shall serve without compensation, but shall be paid in accordance with IC 8-22-2-1 and 8-22-2-2 for their actual expenses including those incurred by the members or their employees in attending meetings or conventions concerned with aviation. ('86 Code, § 8-22-2-1(C)) (Ord. 388, passed 12-3-79)

§ 32.18 POWERS AND DUTIES.

(A) The Board may exercise all powers granted to it under IC 8-22-2, and in particular IC 8-22-2-5, 8-22-2-7, 8-22-2-9, 8-22-2-10 and 8-22-2-13, as amended. ('86 Code, § 8-22-2-1(d))

(B) The Board may establish restricted zones in any direction from the city airport to prohibit the erection of any structure high enough to interfere with the descent of an aircraft at a gliding angle that may be necessary for the usual type of operation that is conducted at the city airport. ('86 Code, § 8-22-2-1(e))

(C) The Board may acquire in the name of the city, by condemnation in accordance with state law, the right to prevent the erection and require the removal of all buildings, towers, poles, wires, cables and other structures and trees within any restricted zone established under this subchapter if those structures or trees or any portion of them interfere with gliding angles to the city airport. ('86 Code, § 8-22-2-1(f))

(D) The Board may make the final determination concerning the issuance of building permits by the city for any building or improvement location permits for any structures located within any restrictive zone established under this subchapter. ('86 Code, § 8-22-2-1(g))

(E) The zoning jurisdiction granted to the Board by this subchapter shall be exclusive against any zoning jurisdiction otherwise granted to the City Plan Commission, City Board of Zoning Appeals, the Board of County Commissioners, the County Plan Commission or any other entity exercising zoning jurisdiction under state law. ('86 Code, § 8-22-2-1(h))
(Ord. 388, passed 12-3-79)

DEPARTMENT OF PARKS AND RECREATION

§ 32.30 ESTABLISHMENT.

The City Department of Parks and Recreation is hereby established pursuant to the provisions of IC 36-10-3.

('86 Code, § 36-10-3-1(a)) (Ord. 213, passed 7-18-60; Am. Ord. 375, passed 3-5-79)

Cross-reference:

Non-reverting Capital Fund for Department of Parks and Recreation, see §§ 33.060 through 33.063

Non-reverting Operating Fund for Department of Parks and Recreation, see §§ 33.075 through 33.078

Statutory reference:

Department of Parks and Recreation, see IC 36-10-3-3

§ 32.31 BOARD OF PARKS AND RECREATION.

The Department shall be under the control of the City Board of Parks and Recreation. The City Park Board shall consist of four members to be appointed by the Mayor of the city. These members shall be appointed on the basis of their interest in and knowledge of parks and recreation with no more than two of these members being affiliated with the same political party. If a vacancy occurs on the Board among the members appointed by the Mayor, the Mayor shall appoint a person to serve for the remainder of the unexpired term of the vacant position.

('86 Code, § 36-10-3-1(b)) (Ord. 213, passed 7-18-60; Am. Ord. 375, passed 3-5-79; Am. Ord. 578, passed 4-6-87; Am. Ord. 645, passed 4-3-89)

§ 32.32 COMPENSATION OF MEMBERS OF BOARD.

Each member of the Park Board shall receive compensation for each official meeting that member attends. The compensation shall be at the rate of \$10 per meeting, but no member of the Parks Board shall receive more than \$300 under this section within one year.
(‘86 Code, § 36-10-3-1(C)) (Ord. 213, passed 7-18-60; Am. Ord. 375, passed 3-5-79)

§ 32.33 POWERS AND DUTIES OF BOARD.

The Board shall have all the powers and duties pursuant to IC 36-10-3.
(‘86 Code, § 36-10-3-1(d)) (Ord. 213, passed 7-18-60; Am. Ord. 375, passed 3-5-79)

ECONOMIC DEVELOPMENT COMMISSION

§ 32.45 ESTABLISHMENT.

The City Economic Development Commission is hereby established pursuant to IC 36-7-12.
(‘86 Code, § 36-7-12-4(a)) (Ord. 278, passed 5-6-68; Am. Ord. 318A, passed 9-9-74; Am. Ord. 359, passed 5-1-78; Am. Ord. 408, passed 2-2-81)

Statutory reference:

Department of Economic Development, see IC 36-7-12-4

§ 32.46 MEMBERSHIP.

The Council hereby exercises its option under IC 36-7-12-5(d) to create a Commission composed of five members.
(‘86 Code, § 36-7-12-4(b)) (Ord. 278, passed 5-6-68; Am. Ord. 318A, passed 9-9-74; Am. Ord. 359, passed 5-1-78; Am. Ord. 408, passed 2-2-81)

§ 32.47 POWERS AND DUTIES.

The Commission shall carry out all necessary procedures to implement the financing of economic development facilities or pollution control facilities for use by private developers or private industries.
(‘86 Code, § 36-7-12-4(C)) (Ord. 278, passed 5-6-68; Am. Ord. 318A, passed 9-9-74; Am. Ord. 359, passed 5-1-78; Am. Ord. 408, passed 2-2-81)

HOUSING AUTHORITY**§ 32.60 ESTABLISHMENT.**

The Salem Housing Authority is hereby established pursuant to the provisions of IC 36-7-18-4. (Ord. 767, passed 3-8-93)

§ 32.61 COMMISSIONERS OF THE HOUSING AUTHORITY.

The governing body of the Salem Housing Authority shall consist of five persons known as Commissioners. It shall be appointed by the Mayor of the city pursuant to the provisions of IC 36-7-18-5. (Ord. 767, passed 3-8-93)

§ 32.62 APPOINTMENT OF COMMISSIONERS; TERMS.

The initial Commissioners of the Salem Housing Authority shall be appointed to the following terms:

(A) One Commissioner to be appointed by the Mayor shall have a term expiring one year after his or her appointment.

(B) One Commissioner to be appointed by the Mayor shall have a term expiring two year after his or her appointment.

(C) One Commissioner to be appointed by the Mayor shall have a term expiring three years after his or her appointment.

(D) Two Commissioners to be appointed by the Mayor shall have a term expiring four years after their appointment.

(E) After the initial terms of the Commissioners of the Salem Housing Authority, all terms shall be for a period of four years except that all vacancies shall be filled for the unexpired term. A Commissioner serves until his or her successor is appointed and qualified.

(F) No more than three of the Commissioners appointed hereunder may be affiliated with the same political party. (Ord. 767, passed 3-8-93)

§ 32.63 COMPENSATION OF COMMISSIONERS.

A Commissioner of the Salem Housing Authority is entitled to compensation in the amount of a per diem allowance of \$25 for attending a meeting of the authority and for reimbursement for necessary expenses, including traveling expenses, incurred in the discharge of each Commissioner's duties. (Ord. 767, passed 3-8-93)

§ 32.64 EXTENT OF INTEREST IN HOUSING PROJECTS.

The extent to which any commissioner or employee of the Salem Housing Authority may acquire or have any direct or indirect interest in a housing project, any property included or planned to be included in a project or a contract, or proposed contract for materials or services to be furnished or used in connection with any housing project shall be limited to those interests set out in IC 36-7-18-11 or any statute amendatory thereof or supplemental thereto. (Ord. 767, passed 3-8-93)

§ 32.65 ADOPTION OF STATUTES BY REFERENCE.

The provisions of IC 36-7-18-1 through 36-7-18-42 and any statute amendatory thereof or supplemental thereto are hereby incorporated by reference and made a part of this subchapter. The statute sets out the powers, duties, procedures, and administrative guidelines for the operation of a housing authority. (Ord. 767, passed 3-8-93)

URBAN ENTERPRISE ASSOCIATION

§ 32.70 ESTABLISHMENT.

The Salem Urban Enterprise Association is hereby established pursuant to the provisions of I.C. 4-4-6.1. (Ord. 1055, passed 10-2-01; Am. Ord. 1141, passed 3-9-04)

§ 32.71 MEMBERSHIP.

(A) The members of the Urban Enterprise Association shall consist of 12 members who shall be chosen as follows:

- (1) The Governor of the State of Indiana shall appoint the following members:

(a) One state legislator whose district includes all or part of the proposed Enterprise Zone in the city.

(b) One representative of the Indiana Department of Commerce shall be appointed. This person shall not be a voting member.

(2) The Mayor of the City of Salem shall appoint the following:

(a) One representative of the plan commission having jurisdiction over the zone, if any exists.

(b) One representative of the municipality's department that performs planning or economic development functions.

(c) Two representatives of businesses located in the zone, one of whom shall be from a manufacturing concern, if any exists in the zone.

(d) One resident of the zone.

(e) One representative of organized labor from the building trades that represent construction workers.

(3) The Common Council shall appoint, by a majority vote, the following members:

(a) One member of the City Council whose district includes all or part of the proposed Urban Enterprise Zone.

(b) One representative of a business located within the proposed Urban Enterprise Zone.

(c) Two residents of the proposed Urban Enterprise Zone who must not be members of the same political party.

(B) The members of the Urban Enterprise Association shall serve four-year terms. The appointing authority shall fill any vacancy in any of its appointments for the balance of the vacated term.

(C) Members of the Urban Enterprise Association may be dismissed only by the appointing. (Ord. 1055, passed 10-2-01; Am. Ord. 2018-5, passed 4-9-18)

§ 32.72 OFFICERS; MEETINGS.

The Urban Enterprise Association shall elect from its membership a chairman, vice-chairman and a secretary by a majority vote. The election of such officers shall occur every two years in the same

month as the first meeting. The Urban Enterprise Association shall meet at least quarterly. The secretary shall notify the members of meetings at least two weeks in advance of each scheduled meeting. The secretary shall provide a list of members of the Urban Enterprise Association to each member and shall notify the members of any changes in membership.
(Ord. 1055, passed 10-2-01)

§ 32.73 POWERS AND DUTIES.

The Urban Enterprise Association shall have all powers and duties granted by state law to urban enterprise associations as set out in I.C. 4-4-6.1-5 and all acts amendatory thereof and supplemental thereto.
(Ord. 1055, passed 10-2-01)

§ 32.74 DISSOLUTION.

If the application of the city for designation of part of its territory as an Urban Enterprise Zone is unsuccessful, then the Urban Enterprise Association established under §§ 32.70 through 32.73 shall be dissolved unless continued in existence by subsequent ordinance.
(Ord. 1055, passed 10-2-01)

§ 32.75 PARTICIPATION FEE.

(A) Each business located within the Urban Enterprise Zone described in Exhibit “A” attached to Ord. 1141, passed 3-9-04, that receives a credit under the provisions of the Indiana Enterprise Zone Statute (I.C. 4-4-6.1-1 through 8) shall assist the Urban Enterprise Association in the form of an annual participation fee equal to 35% of the credits received.

(B) Any business located within the Urban Enterprise Zone who does not pay this participation fee when due shall be disqualified from further eligibility for all credits or incentives available to businesses located within the Urban Enterprise Zone.

(C) Participation fees paid to the Urban Enterprise Association by businesses located within the Urban Enterprise Zone shall be used for the purposes of administering and implementing the action plan approved by the Indiana Enterprise Zone Board on December 12, 2002 which outlines the following objectives:

(1) Job training and certification.

(a) Create community-wide training program based upon different tiers of skills and training levels with corresponding certifications upon completion of the required courses.

(b) Provide the means for local business to develop customized training opportunities unique to their particular business or industry.

(C) Assist zone residents and businesses in gaining access to training opportunities and provide useful information to encourage participation in the program.

(d) Assist with the development of the Washington County Lifelong Learning Center.

(2) Business development assistance.

(a) Provide incentives for purchase of working capital, business equipment and other capital outlays by small and medium-sized businesses in the Enterprise Zone.

(b) Provide incentives for commercial and industrial building rehabilitation.

(C) Leverage Urban Enterprise Association funds to attract local, state and federal grants into the Enterprise Zone to encourage property and business development projects.

(d) Identify existing and potential brownfield sites and begin community process to access, remediate and reuse brownfield properties.

(3) Community empowerment and neighborhood organizations.

(a) Establish neighborhood associations in Enterprise Zone neighborhoods.

(b) Promote neighborhood entranceway identity, landscape improvements and general cleanup of Enterprise Zone neighborhoods.

(C) Involve Enterprise Zone neighborhoods in local development decisions.

(4) Employee preventive health screenings and education.

(a) Assist zone employees in maintaining health so that they may continue working and succeed in their employment.

(b) Assist zone employers in educating their employees about health, wellness and preventive health measures.

(5) Housing improvement program.

(a) Assist in the rehabilitation and repair of existing owner-occupied and rental housing units.

(b) Provide energy efficiency maintenance and weatherization services to elderly residents.

(C) Provide housing program information from existing housing programs to Enterprise Zone residents.

(Ord. 1141, passed 3-9-04)

DEPARTMENT OF REDEVELOPMENT

§ 32.80 ESTABLISHMENT.

There is hereby created the Department of Redevelopment of the City of Salem, Indiana, which shall be entitled to exercise all the rights, powers, privileges and immunities accorded to such department by IC 36-7-14, as amended (the “Redevelopment Act”).

(Ord. 1369, passed 8-23-10)

§ 32.81 GOVERNANCE.

Such Department of Redevelopment of Salem shall be under the control of a board of five voting members to be known as the Salem Redevelopment Commission.

(Ord. 1369, passed 8-23-10)

§ 32.82 COMMISSION MEMBERS.

(A) There is hereby created a board to be known as the Salem Redevelopment Commission. Three of the members of the Commission shall be appointed by the Mayor of Salem, Indiana and two shall be appointed by the Common Council of Salem. Each Redevelopment Commissioner shall serve for one year from the first day of January after his or her appointment and until his or her successor is appointed and has qualified, except that the original Commissioners shall serve from the date of their appointment until the first day of January in the second year after their appointment. If a vacancy occurs, a successor shall be appointed in the same manner as the original Commissioner and the successor shall serve for the remainder of the vacated term.

(B) Each Redevelopment Commissioner, before beginning his or her duties, shall take and subscribe an oath of office in the form prescribed by law, to be endorsed on the certificate of his or her appointment, which shall be promptly filed with the Clerk of the city.

(C) Each Redevelopment Commissioner, before taking his or her duties, shall execute a bond payable to the State of Indiana, with surety to be approved by the city. The bond must be in a penal sum of \$15,000 and must be conditioned on the faithful performance of the duties of his or her office and the accounting for all monies and property that may come into his or her hands or under his or her control. The cost of the bond shall be paid by the special taxing district.
(Ord. 1369, passed 8-23-10)

§ 32.83 QUALIFICATIONS.

Such Redevelopment Commissioners shall have the qualifications prescribed by the laws of the State of Indiana as from time to time amended and shall qualify as therein provided; and shall exercise and enjoy the rights and powers and assume the duties and obligations conferred and imposed by Redevelopment Act, including, but not limited to, the following qualifications:

(A) A Redevelopment Commissioner must be at least 18 years of age and must be a resident of the City of Salem, Indiana. If a Redevelopment Commissioner ceases to be qualified under this division, he or she forfeits his or her office.

(B) No Redevelopment Commissioner of the City of Salem shall receive a salary; but such Redevelopment Commissioners are entitled to reimbursement for expenses necessarily incurred in the performance of their duties.

(C) A Redevelopment Commissioner may not have a pecuniary interest in any contract, employment, purchase or sale made under such provisions of this subchapter and the underlying statutes. However, any property required for redevelopment purposes in which a Redevelopment Commissioner has a pecuniary interest may be acquired, but only by gift or condemnation. A transaction made in violation of this division of this section is void.
(Ord. 1369, passed 8-23-10)

§ 32.84 NON-VOTING ADVISOR.

The Redevelopment Commission shall also have one non-voting advisor who is appointed by the Mayor (the "Advisor"). The Advisor must also be a member of the school board of a school corporation that includes all or part of the territory served by the Redevelopment Commission. The Advisor is not considered a member of the Redevelopment Commission, but is entitled to attend and participate in the proceedings of all meetings of the Redevelopment Commission. The Advisor is not entitled to a salary, per diem, or reimbursement of expenses. The Advisor shall serve for two years from the first day of January after his or her appointment and until his or her successor is appointed and has qualified, except that the original Advisor shall serve from the date of his or her appointment until the first day of January in the second year after his or her appointment.

(Ord. 1369, passed 8-23-10)

§ 32.85 MANAGEMENT OF FUNDS.

The Clerk-Treasurer of the City of Salem who is charged by law for the performance of duties in respect to the funds and accounts of the city, shall perform the same duties with respect to the funds and accounts of the Department of Redevelopment, except as otherwise provided for in the Redevelopment Act.

(Ord. 1369, passed 8-23-10)

CHAPTER 33: FINANCE; CITY FUNDS

Section

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ANIMAL SHELTER NON-REVERTING FUND

§ 33.001 ESTABLISHMENT.

The Animal Shelter Non-Reverting Fund is hereby established.
(Ord. 659, passed 10-2-89)

Cross-reference:

Animals, see Chapter 91

§ 33.002 DEPOSIT OF CONTRIBUTIONS.

Contributions from individuals given to the city for the purchase of equipment, supplies and veterinary services in the operation of the Salem Animal Shelter shall be deposited into the fund.
(Ord. 659, passed 10-2-89)

§ 33.003 DISBURSEMENT OF FUNDS RESTRICTED.

The Salem Animal Shelter Non-Reverting Fund shall not be transferred into the Salem General Fund at the close of any fiscal year nor shall it be considered miscellaneous revenue in determining budget appropriations for the Salem Animal Shelter.

(Ord. 659, passed 10-2-89)

§ 33.004 CERTIFICATION OF PROPOSED EXPENDITURES.

Proposed expenditures from the Animal Shelter Non-Reverting Fund shall be certified by the Animal Warden of the city to the Clerk/Treasurer for payment through the usual claims process.

(Ord. 659, passed 10-2-89)

CROWN HILL CEMETERY LANDSCAPING FUND

§ 33.015 ESTABLISHMENT.

The Crown Hill Cemetery Landscaping Fund is hereby established for the purpose of receiving contributions from the general public for funding a landscaping project for Crown Hill Cemetery which shall be approved by the Common Council of the city as the governing body of Crown Hill Cemetery at a later date.

(Ord. 681, passed 3-5-90)

§ 33.016 PAYMENT OF CLAIMS FROM FUND.

The Clerk/Treasurer shall be authorized to pay claims approved by the Common Council of the city from this fund without the need of additional appropriation as money deposited to the Crown Hill Cemetery Landscaping Fund and shall be deducted solely to the Crown Hill Cemetery Landscaping project.

(Ord. 681, passed 3-5-90)

§ 33.017 ACCEPTANCE OF CERTAIN CONTRIBUTIONS.

No contributions shall be accepted for deposit into the Crown Hill Cemetery Landscaping Fund if the funds are to be expended on a specifically designated cemetery grave or lot.

(Ord. 681, passed 3-5-90)

CUMULATIVE CAPITAL DEVELOPMENT FUND

§ 33.030 ESTABLISHMENT.

The City Cumulative Capital Development Fund is hereby established.
(‘86 Code, § 36-9-15.5-1(a)) (Ord. 525, passed 8-5-85; Am. Ord. 819, passed 3-13-95)

Statutory reference:

Cumulative Capital Development Fund, see IC 36-9-15.5

§ 33.031 AD VALOREM PROPERTY TAX LEVY.

An ad valorem property tax levy shall be imposed and the revenues from the levy shall be retained in the City Cumulative Capital Development Fund.

('86 Code, § 36-9-15.5-1(b)) (Ord. 525, passed 8-5-85; Am. Ord. 819, passed 3-13-95)

§ 33.032 MAXIMUM RATE OF LEVY.

The maximum rate of tax levied under § 33.031 shall not exceed \$.05 per \$100 of assessed valuation beginning with taxes payable in 2010 and thereafter, continuing until reduced or rescinded.

('86 Code, § 36-9-15.5-1(C)) (Ord. 525, passed 8-5-85; Am. Ord. 819, passed 3-13-95; Am. Ord. 1325, passed 5-11-09)

§ 33.033 USE OF FUNDS.

The funds accumulated in the Cumulative Capital Development Fund shall be used for the following purposes:

(A) Those purposes authorized by IC 8-16-3, including the following: to improve, construct, or maintain and repair bridges, bridge approaches and grade separations.

(B) Those purposes authorized by IC 8-22-3-25, including the following: to construct, enlarge, improve, remodel, repair, or equip buildings, structures, runways, or other facilities for use in connection with the Salem Airport.

(C) Those purposes authorized by IC 36-8-14, including the following: to fund construction and improvements of firefighting buildings, to purchase firefighting equipment, and to purchase police radio equipment.

(D) Those purposes authorized by IC 36-9-16-2 for a Cumulative Capital Improvement Fund and for a Cumulative Capital Building Fund.

(E) Those purposes authorized by IC 36-9-16-3 for cumulative capital improvement.

(F) Those purposes authorized by IC 36-9-16-5 for a Cumulative Street Fund.

(G) Those purposes authorized by IC 36-9-17 for a General Improvement Fund.

(H) Those purposes authorized by IC 36-9-26 for a Cumulative Building Fund for municipal sewers.

(I) Those purposes authorized by IC 36-10-3-21 for a Cumulative Building Fund for parks and recreation.

(J) Funds accumulated in the Salem Cumulative Capital Development Fund may be spent for purposes other than the purposes stated above if the purpose is to protect the public health, welfare, or safety in an emergency situation which demands immediate action. Money may be spent under the authority of this section only after the Mayor issues a declaration that the public health, welfare, or safety is in immediate danger that requires the expenditure of money by the funds.

('86 Code, § 36-9-15.5-1(d)) (Ord. 525, passed 8-5-85; Am. Ord. 819, passed 3-13-95; Am. Ord. 1325, passed 5-11-09)

Statutory reference:

Similar state law, see IC 36-9-15.5-2

§ 33.034 EXCEPTIONS.

Notwithstanding § 33.033, funds accumulated in the City Cumulative Capital Development Fund may be spent for purposes other than the purposes stated in that section if the purpose is to protect the public health, welfare or safety in an emergency situation which demands immediate action. Money may be spent under the authority of this section after the Mayor issues a declaration that the public health, welfare or safety is in immediate danger that requires the expenditure of money in the fund.

('86 Code, § 36-9-15.5-1(e)) (Ord. 525, passed 8-5-85; Am. Ord. 819, passed 3-13-95)

Statutory reference:

Similar state law, see IC 36-9-15.5-8(C)

CUMULATIVE CAPITAL IMPROVEMENT FUND**§ 33.045 ESTABLISHMENT.**

The City Cumulative Capital Improvement Fund is hereby established.
(‘86 Code, § 36-9-16-3(a)) (Ord. 246-A, passed 6-14-65)

Statutory reference:

Cumulative Capital Improvement Fund, see IC 36-9-16-3

§ 33.046 DEPOSIT OF DISTRIBUTIONS.

All distributions received from the City Cumulative Capital Improvement Fund or the Indiana Cigarette Tax Fund shall be deposited in the City Cumulative Capital Improvement Fund.
(‘86 Code, § 36-9-16-3(b)) (Ord. 246-A, passed 6-14-65)

§ 33.047 USE OF FUNDS.

(A) Disbursements from the City Cumulative Capital Improvement Fund shall be made only for the following purposes:

- (1) Purchase land, easements or rights-of-way;
- (2) Purchase buildings;
- (3) Construct or improve city-owned property;
- (4) Design, develop, purchase, lease, upgrade, maintain, or repair:
 - (a) Computer hardware;

(b) Computer software;

(C) Wiring and computer networks; and

(d) Communications access systems used to connect with computer networks or electronic gateways;

(5) Pay for the services of full-time and part-time computer maintenance employees;

(6) Conduct nonrecurring in-service technology training of unit employees;

(7) Undertake Internet application development; or

(8) Retire general obligation bonds issued by the city for one of the purposes stated in divisions (1) through (6) above.

('86 Code, § 36-9-16-3(C))

(B) No disbursements shall be made from the Fund for the salaries of any employees or public officials except for expenses directly chargeable to the improvements listed in division (A) of this section.

('86 Code, § 36-9-16-3(d))

(C) The money in the City Cumulative Capital Improvement Fund does not revert to the General Fund.

(D) The City Council may at any time, by ordinance or resolution, transfer money deposited into the City Cumulative Capital Improvement Fund to the Salem General Fund or to a Multiple County Infrastructure Authority established pursuant to I.C. 36-7-23.

(Ord. 246-A, passed 6-14-65; Am. Ord. 1174, passed 1-11-05)

URBAN BEAUTIFICATION FUND

§ 33.090 ESTABLISHMENT; PURPOSE.

The Salem Urban Beautification Fund is hereby established for the purpose of receiving contributions from the general public for funding the construction and landscaping of public property and areas owned and maintained by the city including the sidewalks and parking areas around the public square in the city and any of the improvements of public property and areas of the city to be approved by the Common Council of the city as the governing body of the city at a later date. The Crown Hill Cemetery shall be excluded from the purposes of this fund as it has a separate fund established as provided in §§ 33.015 through 33.017 of this chapter.

(Ord. 693, passed 7-2-90)

§ 33.091 PAYMENT OF CLAIMS FROM FUND.

The Clerk/Treasurer shall be authorized to pay claims approved by the Common Council of the city from this fund without the need of additional appropriation as money deposited to the Salem Urban Beautification Fund shall be deducted solely to the Salem Urban Beautification Fund.
(Ord. 693, passed 7-2-90)

§ 33.092 ACCEPTANCE OF CERTAIN CONTRIBUTIONS.

No contribution shall be accepted for deposit into the Salem Urban Beautification Fund if the funds are to be expended on private properties.
(Ord. 693, passed 7-2-90)

UNSAFE BUILDING FUND**§ 33.101 ESTABLISHMENT.**

The Salem Plan Commission is hereby authorized and directed to establish an Unsafe Building Fund as part of its operating budget, pursuant to provisions of I.C. 36-7-9-14(a). Any balance remaining at the end of a fiscal year shall be carried over in the fund for the following year and shall not revert to the General Fund.
(Ord. 841, passed 12-11-95)

§ 33.102 MONIES TO BE DEPOSITED INTO FUND.

The sum of \$7.50 received from each improvement location permit and inspection fee collected by the Building Inspector of the Plan Commission shall be deposited into this Unsafe Building Fund.

In addition, the following money shall also be deposited into this Fund:

(A) For each improvement location permit and inspection fee that is more than \$100, an additional \$5 per \$100 increment collected from each improvement location permit and inspection fee shall be deposited into this fund.

(B) Money received as payment for or settlement of obligations or judgments established under I.C. 36-7-9-9(3) (13) and I.C. 36-7-9-17,22.

(C) Money received from bonds posted under IC 36-7-9-7.

(D) Money received in satisfaction of Receiver's Notes or Certificates that were issued under IC 36-7-9-20 which were purchased with money from the Unsafe Building Fund.

(E) Money received for payment or settlement of civil penalties imposed under the provision of IC 36-7-9-7.

(F) Money received from the collection of special assessments under the provision of IC 36-7-9-13.5.

(Ord. 841, passed 12-11-95)

§ 33.103 USE OF FUNDS.

Money in this Unsafe Building Fund may be used for the following expenses in carrying out the provisions of the Unsafe Building Ordinance:

(A) The cost of obtaining reliable information about the identity and location of each person who owns a substantial property interest in an unsafe premises.

(B) The cost of an examination of an unsafe building by a registered architect or registered engineer not employed by the city.

(C) The cost of surveys necessary to determine the location and dimensions of real property on which an unsafe building is located.

(D) The cost of giving notice of orders, notice of statements of rescission, notice of continued hearing, and notice of statements that public bids are to be let in the manner prescribed by IC 36-7-9-25.

(E) The bid price of work by a contractor under the provisions of IC 36-7-9-10 or IC 36-7-9-17,22.

(F) The cost of emergency action under the provisions of IC 36-7-9-9.

(G) The cost of notes or receiver certificates issued under the provision of IC 36-7-9-20.
(Ord. 841, passed 12-11-95)

SELF-INSURANCE NON-REVERTING FUND**§ 33.111 ESTABLISHMENT.**

The Common Council hereby establishes a non-reverting fund for the city's partially self-funded employee health insurance plan, which fund shall be known as the "Self-Insurance Non-Reverting Fund".

(Ord. 1028, passed 12-27-00)

§ 33.112 MONIES TO BE DEPOSITED INTO FUND.

The Clerk-Treasurer is hereby directed to begin a transfer from the various department budgets in an amount equal to the maximum claim level plus in an amount equal to the administrative costs for the third party administrator or its successor.

(Ord. 1028, passed 12-27-00)

§ 33.113 USE OF FUNDS.

Upon completion of such transfer, the Common Council further authorizes the payment of the maximum claim level plus administrative costs to the third party administrator, or its successor, from the Self-Insurance Non-Reverting Fund established for purposes of administering this plan.

(Ord. 1028, passed 12-27-00)

LOCAL LAW ENFORCEMENT CONTINUING EDUCATION FUND**§ 33.201 ESTABLISHMENT.**

The Local Law Enforcement Continuing Education Fund previously established by the city is hereby ratified.

(Ord. 961, passed 11-9-98)

§ 33.202 DEPOSIT OF REVENUES.

Revenues dedicated to the Local Law Enforcement Continuing Education Program by statute shall be deposited into this fund.

(Ord. 961, passed 11-9-98)

§ 33.203 USE OF FUNDS.

The expenditures from this fund shall be made in the manner and for the purposes as set out in IC 5-2-8-2(e), (f) and (g).
(Ord. 961, passed 4-9-98)

RIVERBOAT REVENUE SHARING FUND

§ 33.301 ESTABLISHMENT.

The Common Council hereby establishes the Salem Riverboat Revenue Sharing Fund.
(Ord. 1126, passed 10-14-03)

§ 33.302 USE OF FUNDS.

This fund, upon proper appropriation, may be used for any of the following purposes:

(A) To reduce the property tax levy of the city for a particular year;

(B) For deposit in a special fund or allocation fund created to provide funding for additional credits for property tax replacement credit in property tax increment allocation areas or debt repayment;

(C) To fund sewer and water projects, including storm water drainage projects;

(D) For police and fire pensions; or

(E) To carry out any governmental purpose for which the money is appropriated by the Common Council. Money used under this division (E) must not reduce the property tax levy of the city for a particular year or reduce the maximum levy of the city.

(Ord. 1126, passed 10-14-03)

RAINY DAY FUND**§ 33.310 ESTABLISHMENT.**

The Common Council hereby establishes the Rainy Day Fund for the purpose of:

(A) Receiving transfers of unused and unencumbered funds from general or special tax levies whose purposes have been fulfilled;

(B) Supplemental distribution of county adjusted gross income tax revenues; and

(C) Supplemental distributions of county economic development income tax revenues.
(Ord. 1143, passed 4-13-04)

§ 33.311 USE OF FUNDS.

The Rainy Day Fund is subject to the same appropriation process of other funds that receive tax money.

(Ord. 1143, passed 4-13-04)

§ 33.312 BUDGET LIMIT.

During any calendar year, the city shall not transfer more than 10% of the total budget of the city for that calendar year to the Rainy Day Fund. This section does not apply to special distributions received from county adjusted gross income tax and county economic development income tax revenues.
(Ord. 1143, passed 4-13-04)

CITY HALL MURAL FUND**§ 33.320 ESTABLISHMENT.**

The Common Council of the city hereby establishes the City Hall Mural Fund for the purpose of receiving donations to be used for the completion of a mural to be painted for the City Council chambers in City Hall by Nick Ring and for the further purpose of receiving additional contributions for the maintenance of the mural once created.

(Ord. 1269, passed 9-11-07)

§ 33.321 PAYMENT OF CLAIMS FROM FUND.

The Clerk-Treasurer shall be authorized to pay claims approved by the Common Council of the city from this fund without the need of additional appropriation as money deposited to the City Hall Mural Fund shall be deducted solely from the City Hall Mural Fund.
(Ord. 1269, passed 9-11-07)

WATER WORKS BOAT LICENSE NON-REVERTING FUND

§ 33.325 BOAT LICENSING FEES.

The following boat licensing fees are hereby established retroactive to January 1, 2009:

Type of License	Type of License Water Works Boat License Fund (Non-Reverting)
County Resident - Day License	\$ 5.00 *\$ 7.00
County Resident - Annual License	\$15.00
State Resident - Day License	\$ 5.00 *\$ 7.00
State Resident - Annual License	\$20.00
Out-of-State Resident - Day License	\$10.00 *\$15.00
Out-of-State Resident - Annual Fee	\$25.00
Tournament Fees	\$25.00
* If purchased at lake.	

(Ord. 1317, passed 12-8-08; Am. Ord. 1352, passed 11-9-09)

PUBLIC SAFETY TAX FUND**§ 33.340 ESTABLISHMENT.**

The Common Council hereby establishes a Public Safety Tax Fund effective immediately.
(Ord. 1486, passed 1-13-14)

§ 33.341 PUBLIC SAFETY ACTIVITIES FUNDED.

The following types of public safety activities may be funded through appropriate budgeting and appropriation from the Public Safety Tax Fund:

(A) A police and law enforcement system to preserve public peace and order;

(B) A firefighting and fire prevention system;

(C) Emergency action taken at or near the scene of a hazardous materials emergency or to prevent or minimize harm to human health, property or the environment from the controlled release of hazardous material;

(D) A communications system designed for the transmission of writing, signs, signals, pictures, data and sounds of all kinds by any means, device or apparatus; and intended for use only by public safety agencies for public purposes.

(E) Pension payments for a member of the Fire Department or any other employee of the Fire Department.

(F) Pension payments for a member of the Police Department, a Police Chief hired under a waiver, or any other employee hired by the Police Department.
(Ord. 1486, passed 1-13-14)

RURAL BUSINESS ENTERPRISE GRANT FUND

§ 33.350 ESTABLISHMENT.

The Common Council hereby establishes the Rural Business Enterprise Grant Fund to be used in conjunction with the terms and conditions of Grant Agreement No. 15-088-471191279 entered into by the city with the United States Department of Agriculture/Rural Development Administration as of February 10,2014.
(Ord. 1495, passed 6-9-14)

PROCUREMENT INVOLVING FEDERAL GRANTS

§ 33.360 PROCUREMENT INVOLVING FEDERAL GRANTS.

(A) The city, in receiving direct federal awards will use procurement procedures that conform to applicable federal law and regulations and standards identified in 49 CFR 18.36, the A-102 Common Rule or OMB Circular A-110 (2 CFR part 215), as applicable;

(B) The city, in receiving direct federal awards will use procurement procedures that conform to applicable federal law and regulations and standards identified in 2 CFR 200 for those federal awards made after December 26, 2014;

(C) The city shall not use federal funds to procure labor or materials from a supplier which has been suspended or disbarred from participating in federal grants;

(D) In the case of federal grants passed through the State of Indiana, the city shall use the same state policies and procedures used for procurements from non-federal funds. Further, the city shall ensure that every purchase order or other contract includes any clauses required by federal statutes and executive orders and their implementing regulations;

(E) The city shall use procurement procedures which reflect applicable state and local laws and regulations, provided that the procurements conform to the applicable federal laws and standards; and

(F) The city shall maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer, or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved. (Ord. 2016-1545, passed 4-11-16; Am. Ord. 2016-1545A, passed 12-12-16)

PURCHASING AGENCIES AND AGENTS

§ 33.370 PURCHASING AGENCIES AND AGENTS.

(A) The following entities shall be considered purchasing agencies of the city under I.C. 5-22-2-25:

- (1) Board of Public Works and Safety;
- (2) Parks Board;
- (3) Redevelopment Commission; and
- (4) Cemetery Board.

(B) Each purchasing agency may designate in writing one or more employees or officers of the city as purchasing agents under I.C. 5-22-2-26. (Ord. 2016-1568, passed 12-12-16)

§ 33.371 PURCHASING PROCEDURES.

(A) The requirements set forth herein shall apply to all purchases of equipment materials, goods and supplies (or any other expenditure governed by I.C. 5-22) by any city department, utility or sanitary sewer department. All purchasing agencies/agents may purchase services in whatever manner the purchaser determines to be reasonable to the extent provided by law.

(B) All purchases over \$150,000 shall be by invitation to bid pursuant to the provisions of I.C. 5-22 and shall be approved by the appropriate purchasing agency.

(C) All purchases between \$50,000 and \$150,000 shall be made by requesting at least three written quotes pursuant to the provisions of I.C. 5-22-8 and shall be approved by the purchasing agency.

(D) All purchases between \$5,000 and \$50,000 shall also be made by requesting at least three quotes and shall be approved by the purchasing agency. Strict compliance with I.C. 5-22-8 is not required (e.g. quotes are not required to be in writing and the purchasing agency is not required to give parties seven days to submit quotes) but all solicitations and quotes must be documented.

(E) All purchases less than \$5,000 may be made by purchasing agent on the open market without inviting or receiving quotes or bids.

(F) Under the circumstances allowable by I.C. 5-22-10 (i.e. existence of emergency conditions, unique opportunity to obtain supplies at a substantial savings) purchases may be made without soliciting bids or quotes, provided that the purchase is made with such competition as is practical under the circumstances and the purchasing agency documents the applicable special circumstances as required by I.C. 5-22-10.

(G) If a purchasing agency makes a written determination that the use of the competitive bidding or quote procedures is either not practicable or not advantageous to the city, the purchasing agency may make the purchase by utilizing the request for proposal procedures set forth in I.C. 5-22-9.

(H) All purchases shall further be made in accordance with the preferences set forth in I.C. 5-22-11 (Dept. of Corrections), I.C. 5-22-12 (Rehabilitation Center), I.C. 5-22-13 (Qualified Nonprofit Agencies for Persons With Severe Disabilities), I.C. 5-22-15 (Supplies Manufactured in the U.S., Coal Mined in Indiana, Recycled or Post-Consumer Materials, etc.) and any other preferences established under Indiana law.

(Ord. 2016-1568, passed 12-12-16)

§ 33.372 COUNCIL APPROPRIATION.

No purchase shall be made by any purchasing agency or agent except upon sufficient appropriation made by the City Council.

(Ord. 2016-1568, passed 12-12-16)

ARP CORONAVIRUS LOCAL FISCAL RECOVERY FUND

§ 33.375 ESTABLISHMENT.

(A) The Common Council resolves that a need exists for the establishment of the ARP Coronavirus Local Fiscal Recovery Fund (Fund #176) pursuant to State Examiner Directive 2021-1. The sources of funding for the newly established fund will include monies allocated to the city from the American Rescue Plan Act of 2021 (ARPA). The uses of the fund are outlined in the city's Local Fiscal Recovery Plan (attached to Ord. 2021-6 as Exhibit A) and are in accordance with the purposes outlined in Section 603(c) of the ARPA.

(B) Expenditures from this fund will require an approved appropriation by the Common Council. In addition, the Fiscal Officer will review the requested use of monies along with the City Attorney and Financial Advisor for compliance with ARPA requirements. The Fiscal Officer will also maintain

detailed accounting records of the fund to provide for future audits of the ARP grant fund. All disbursements will be made directly from the ARP grant fund and money from the ARP grant fund may not be transferred to another fund of the city.

(Ord. 2021-6, passed 4-12-21)

BOARD OF AVIATION COMMISSIONERS' ROTARY FUND

§ 33.380 ESTABLISHMENT.

The Common Council resolves that a need now exists for the establishment of the Rotary Fund for the Salem Board of Aviation Commissioners ("Board"). The sources of funding for the newly established fund will include monies allocated to the city pursuant to I.C. 8-22-2-7.

(A) Purchases and expenditures for aviation fuel shall be made and allowable claims shall be paid by the Board in the same manner as provided for the allowance of other claims against the city.

(B) The city, by its Common Council, may appropriate a sufficient amount as a rotary fund to be used by the Board for the purchase of fuels and lubricants to be sold to the general public in the operation of the airport.

(C) All funds received from the sale of fuels and lubricants purchased with funds from a rotary fund shall be turned over at least once a month to the city Clerk-Treasurer to remain in the rotary fund to be checked against by the Board as other appropriations are disbursed, for the sole purpose of purchasing fuels and lubricants for sale to the public in the operation of the airport.

(D) At the end of each fiscal year, the Board shall make a detailed statement to the fiscal body showing the amount of money received and paid over to the Clerk-Treasurer to the credit of the rotary fund and also showing the amount of fuels and lubricants on hand. If at the end of a fiscal year the accumulated rotary fund plus value of inventory of fuels and lubricants on hand exceeds the total previous appropriation to the fund by 25%, the excess shall be turned over to the aviation fund.

(E) The BOAC may incur obligations or liability of on behalf of the city only if it falls within this appropriation of aviation fuel, specifically made for that purpose.

(F) All money remaining in the treasury to the credit of the Board at the end of the calendar year belongs to the general aviation fund to be used by the board for aviation purposes. All other funds received by the Board from whatever source, except funds received from the sale of fuels and lubricants purchased by funds from the rotary fund, shall be deposited in the treasury of the city to the credit of the aviation fund.

(Ord. 2021-25, passed 11-8-21)

CHAPTER 34: FIRE DEPARTMENT

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§ 34.001 DEFINITIONS.

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

COMMANDING OFFICER. A Superior Officer having rank (either temporary or permanent) higher than that of a firefighter.

GENERAL ORDER. A permanent order issued by the Fire Chief generally relating to a general circumstance or situation.

LEAVE OF ABSENCE. An extended period during which a firefighter is excused from active duty and during which period he/she receives no pay.

OFF DUTY. That period in which a firefighter is free from specified routine duties.

OFFICER AND RANK. These terms apply to every member of the Fire Department, regardless of rank, division or duty.

ON DUTY. That period when a firefighter is actively engaged in performance of his/her duties.

ORDER. Instruction given by Ranking Officer to a subordinate.

RANKING OFFICER. Officer having the highest rank of grade. Officers of the same grade shall rank according to the date of appointment to the grade, unless otherwise ordered by the Fire Chief. When two or more officers are appointed to the same rank on the same date, they will rank in order of such appointment to the Fire Department. When two or more officers are on duty together, the officer of the highest rank is in command and will be held responsible. For a special detail and for a specific period, an officer may be designated by the Commanding Officer to take command without regard for rank.

REPORT. Always a written communication unless otherwise specified. It may be a verbal report but must be confirmed by written communication before the officer reporting the same shall go off duty.

SICK LEAVE. That period during which a firefighter is excused from active duty by reason of illness or injury.

SUPERIOR OFFICER. A term applied to every officer having supervision (either temporary or permanent) to every officer of lower rank.

THROUGH OFFICIAL CHANNELS. Through the hands of Commanding Officers.
(Ord. 1003, passed 6-13-00)

§ 34.002 PURPOSE.

The purpose of this chapter shall be to promote harmony, discipline and efficiency in the Fire Department. This chapter shall be a guide to every member of the Department in the acceptance of their responsibility as a public servant.

(Ord. 1003, passed 6-13-00)

§ 34.003 VIOLATION; DISCIPLINARY ACTIONS.

Any member of the Fire Department violating any of the rules and regulation of the Department may be disciplined by the Board of Public Works and Safety or the Fire Chief in accordance with IC 36-8-3-1 through IC 36-8-3-4.1.

(Ord. 1003, passed 6-13-00)

§ 34.004 FIREFIGHTER PENSION BENEFITS.

(A) If a member dies while in active service or after retirement from the City Fire Department, the surviving spouse of the firefighter is entitled to receive an amount equal to 50% of the salary of a fully paid, first-class firefighter in the unit at the time of the payment of the pension.

(B) If a member dies while in active service or after retirement from the City Fire Department, then each of that member's children under the age of 18 years, or under the age of 23 years if a full-time student, is entitled to receive an amount equal to 20% of the salary of a fully paid, first-class firefighter for the city at the time of the payment of the pension.

('86 Code, § 36-8-7-12) (Ord. 534, passed 12-2-85; Am. Ord. 931, passed 1-12-98)

Cross-reference:

Personnel policies, see Chapter 35

Statutory reference:

Amount of benefits; determination of time served, see IC 36-8-7-12.1

§ 34.005 KELLY DAY.

(A) A member of the Fire Department may be awarded a "Kelly Day" during a 144-hour/19-day work period only if that Fire Department member will work or claim as paid vacation or sick leave all of the 19 days within the current work period.

(B) If a member of the Fire Department is placed on medical leave that requires him/her to be absent from work longer than the three consecutive sick days allowed by § 36.09(C), that firefighter shall forfeit his/her "Kelly Day" until the firefighter can resume his/her normal working schedule.

(C) In the event that the award of a “Kelly Day” creates a scheduling problem so as to impair the safe and efficient management of the Fire Department, the Fire Chief may forego the awarding of a “Kelly Day or Days” thereby making the affected firefighter eligible for overtime compensation.

(D) The use of paid time off when a firefighter is eligible for overtime will not prevent said firefighter from receiving straight time pay up to the same amount of hours as the paid time off. If the off-duty hours exceed the paid time off, then the firefighter will again be eligible for their overtime rate for the excess hours. In order for a firefighter to receive their overtime rate, the firefighter must actually work 144 hours during a 19-day overtime period.

(Ord. 928, passed 1-12-98; Am. Ord. 2020-32, passed 12-28-20)

§ 34.006 RESIDENCY.

A member of the Fire Department:

(A) Must reside within Washington County, Indiana;

(B) Must have adequate means of transportation from his or her residence to the city; and

(C) Must maintain telephone service in his or her residence so that he or she may be contacted on an as-needed basis by the Fire Department.

(Ord. 1247, passed 3-13-07)

RULES AND REGULATION

§ 34.015 GENERAL DUTIES AND RESPONSIBILITIES OF FIREFIGHTERS.

(A) Firefighters shall at all times serve the public, protect life and property, promote fire safety and prevention, and enforce the ordinances of the city and the laws of the state and the United States in a courteous manner.

(B) Firefighters shall not distort the facts of any reportable incident. Officers having information regarding any incidents shall immediately communicate all details to his/her Superior Officer.

(C) Firefighters shall properly discharge the duties assigned them. In discharging his/her duties, a firefighter will be held fully responsible for any and all of his/her actions unless his/her actions are as a result of a direct order from another officer of a higher rank.

(D) Firefighters must be regarded as credible. Firefighters are required to speak the truth at all times. Habitual lying shall be grounds for disciplinary action.

(E) Firefighters shall not be absent from duty without permission. Firefighters shall be punctual. Firefighters shall arrive at headquarters at such time as to enable them to be prepared to go on duty at the time set. Firefighters shall familiarize themselves with the previous shift's activities, excluding regular fire duties.

(F) Firefighters must make reports promptly and in the manner prescribed. Firefighters who receive assistance from any other firefighter on any case to which they are assigned shall make note of such assistance in their reports on the case. No erasures are to be made in any of the books, records or documents connected with the Department. If any error is discovered in the books or records, it is to be altered and corrected by drawing the pen neatly across the entry and substituting the correction above it.

(G) Any firefighters receiving property or evidence will submit the articles to the Commanding Officer, either in person or through the depository located in the police station, within a maximum 24-hour period. This property or evidence may be checked out any time after it has been recorded in the property compartment. The police property room will not accept articles submitted after 24 hours or left unattended. If for any reason the property or evidence cannot be submitted within a 24-hour period, it is the officer's responsibility to clear this through the Chief or Assistant Chief. No evidence or property will be accepted without a case report on file.

(H) Firefighters are held to be always on duty, although periodically relieved from the routine performance of it. They are always subject to orders from their Superior Officers and to calls from civilians, and the fact that they may be technically “off duty” shall not be held as relieving them from the responsibility of taking proper action in any matter coming to their attention.

(I) Firefighters shall be civil, orderly and courteous in their Department. They shall give the greatest possible attention and courtesy to all requests. Firefighters off duty but in uniform shall conduct themselves as though they were on duty. Firefighters shall act with dignity. They shall not show a lazy disposition. Firefighters are prohibited from influencing or attempting to influence by threats or otherwise, the lawful business of any person. They shall maintain an even, cheerful temper, regardless of the provocation, remaining cool and collected at all times. They shall give their name and rank when requested in a respectful manner.

(J) Firefighters shall have respect for and comply with the laws while on or off duty. They shall study carefully and thoroughly understand their rules and regulations, city ordinances, and state and federal laws.

(K) Firefighters shall not drink any alcoholic or intoxicating liquor of any kind while on duty. Nor shall they report to duty with the odor of liquor on their breath. Firefighters shall not buy liquor while in uniform.

(L) Firefighters shall pay all just debts contracted and meet all other obligations undertaken while members of this Department.

(M) Firefighters shall report to a Superior Officer, upon request, any violation of a rule or order, or any conduct of another officer which is of nature to cause embarrassment to the Department.

(N) (1) Firefighters shall at no time disobey the orders of any Superior Officers. Superior Officers shall at no time give orders without adhering to the organizational chart of their respective job definitions.

(2) Should an order conflict with any previous order issued by another of their Superior Officers or with any general or specific order of any provision of their manual, the officer to whom such order is issued shall respectfully call attention to such conflict. If the Superior Officer giving such order does not make changes which will remove such conflict, the order shall stand, and the responsibility shall be the Superior Officer’s. The firefighter obeying it shall not be held responsible for disobedience of orders. It is sufficient for him/her to know that the person giving the order is in proper command. Should any order appear unjust or improper to the firefighter to whom it is directed, he/she shall perform it first, and afterward he/she may call it to the attention of the Fire Chief through official channels.

(3) Firefighters sent on a call shall, immediately upon the completion of the task, notify the sending Superior Officer of the nature of the same and the action taken. If the investigation requires an unusually long period, he/she shall notify headquarters by radio or phone of his/her location and the circumstances and the telephone number by which he/she may be reached.

(O) Firefighters who are incompetent, inefficient, cowardly or unable to perform required duties will be subject to disciplinary action.

(P) Firefighters shall report any change in address as soon as possible after such change shall occur, giving a telephone number. In case an officer shall remove his/her residence beyond a 15 mile radius from the corporate city limits of the city, his/her office shall be declared vacant unless his/her actions have been approved by the Board of Public Works and Safety and according to the laws of the state in such cases.

(Q) Ranking officers shall always take charge at fires, and other situation requiring immediate attention, in the absence of a Superior Officer.

(R) The entire Fire Department of the city constitutes one body, and the Fire Chief may assign any of its members to any duty at any time.

(S) Each firefighter will be furnished with a policy manual containing the rules and regulation with which they must make themselves familiar in order that their duties may be fully understood. This manual is the property of the Board of Public Works and Safety and must be returned as other public property.

(T) Upon the resignation, dismissal, retirement or death of any member of the Department, he/she will surrender his/her book of rules and regulation, his/her badge, uniforms, and all other insignia of office or property of the Fire Department in his/her possession to the Fire Chief.

(U) At no time shall a firefighter of the Fire Department drive a vehicle in such a way as to endanger the safety of the general public. During an emergency run the vehicle, when approaching a traffic control signal or sign (that is, stop sign, stop light or yield sign), shall make sure the area is clear and use all precautions to protect the safety of the general public.

(V) When running lights and sirens, any time a fire vehicle reaches a control device or sign (that is, stop sign, stop light or yield sign), it shall be able to come to a stop if the device indicates and then proceed with caution when the intersection is clear.

(Ord. 1003, passed 6-13-00)

§ 34.016 GENERAL CONDUCT OF FIREFIGHTERS.

(A) Firefighters are forbidden to use or threaten to use any political power to effect a change in their line of duty.

(B) Firefighters are forbidden to use vulgarity around the Department. They are to have general good conduct while in the Department and on the street.

(C) Firefighters shall not solicit rewards, presents, gratuities or compensation for the performance or omission of their duty.

(D) Firefighters shall not publicly criticize the action of any member of the Department. Firefighters having a grievance against any other firefighter shall take up the matter through official channels.

(E) Firefighters shall submit to a Breathalyzer test upon request of the Fire Chief. Refusal shall be grounds for disciplinary action.

(F) IC 36-8-3-12 indicates a firefighter must not solicit votes and campaign funds or challenge voters for the office for which they are candidates while in uniform or on duty.

(G) Personnel of the Fire Department should recognize that this is their primary job. They should consider this in decisions relating to other jobs or events.

(H) Personnel will not be part of any illegal activities, nor shall they work in a location where there is an indication that it is going on.

(I) Personnel should avoid belittling others to show authority, to be noticed, or for any other reason.

(J) Use of Department vehicles outside the county for anything other than official business or job related activities must be first cleared by the Chief or Assistant Fire Chief.
(Ord. 1003, passed 6-13-00)

§ 34.017 PHYSICAL AND MENTAL CONDITION.

(A) All firefighters shall be physically and mentally fit.

(B) All firefighters shall submit to a physical examination as ordered by the Fire Chief.

(C) Any firefighter shall submit to psychiatric examination upon request from the Fire Chief.

(D) All firefighters who reach 20 years of service must have an annual physical examination if requested by the Fire Chief.

(E) If while on duty, a firefighter becomes sick or gets injured and unable to perform his/her duties, he/she shall report it to his/her Superior Officer immediately. Firefighters shall report any injury to their person whether injury resulted on or off duty. When injury prevents such report, the firefighter's immediate superior shall make it. Firefighters on return from sick leave shall make a sick report stating the period of absence from duty, the nature of the illness and the name of the attending physician if requested by the Fire Chief.

(Ord. 1003, passed 6-13-00)

§ 34.018 DUTIES AND RESPONSIBILITIES.

(A) Firefighters shall note all street lamps, automatic traffic signals, and the like, in disrepair or not working properly.

(B) All damage to city property shall be reported to the Commanding Officer. Written report of said damage will be forwarded to the Fire Chief by the Commanding Officer.

(C) A firefighter discovering a fire shall promptly report it by phone or radio. He/she shall immediately secure the safety of all people in the buildings. At night, he/she shall see that all persons in burning or threatened buildings are awakened. Upon arrival of duty fire personnel, the firefighter shall report to the Commanding Officer and turn the fire scene over to him/her, then report to the station. Any indication of incendiary origin shall be investigated.

(D) Firefighters at the scene of any accident in which any person suffers physical injury or occurring as the result of any defect in the public place or where it appears that the city may be held responsible for any injury or damage, shall make a careful and thorough investigation along with the Police Department as to the cause of the accident and shall obtain and report all facts together with the name and address of all witnesses.

(E) Firefighters shall report only the facts involving Fire Department cases.

(F) Firefighters shall not render assistance in civil cases except to prevent an immediate breach of peace or to quell a disturbance actually commenced. Firefighters shall not testify in civil cases unless legally summoned to do so. Firefighters shall not serve civil processes except as provided by law.

(G) Firefighters, while commuting on the streets of the city, shall always be alert for any violation of a city ordinance or any citizen in distress.

(H) Firefighters shall act as public relation tools for the city.

(I) Firefighters shall be very knowledgeable in all criminal, civil, business and city ordinance laws.

(J) Anyone calling in sick shall notify the firefighter in charge for that day before reporting in time.

(K) Any call involving serious injuries or death requires the presence of the Officer in Charge (OIC).

(L) All investigations done by squad officers shall be cleared by the firefighter in charge. This includes any request for assistance made by other departmental divisions of other departments.

(M) Any firefighter going into a business location for personal reasons shall notify headquarters and turn on his/her portable radio. This stop should be as brief as possible.

(N) No more than two firefighters and one car can go 10-5 out of the city at one time.

(O) When the firefighter comes to headquarters for any reason, he/she will notify radio of such, and the dispatcher will place it on the radio log, that is, 107 headquarters on reports, or 10-6 Unit II's Office, and the like. When the firefighter goes back on the street, he/she is to go 10-8 on his/her radio, and this is to be noted on the radio log.

(P) All appointments (that is, doctors, dentists, and the like) should be scheduled on the firefighters off time unless cleared by the Fire Chief.

(Q) It is the policy of the Salem Fire Department that only Department members will ride in Fire Department vehicles. The Fire Chief may, from time to time, authorize other groups or persons to ride in Fire Department vehicles (example: fair parades, etc.).

(R) Firefighters will make an accident report any time a city or township vehicle is involved in an accident.

(Ord. 1003, passed 6-13-00)

§ 34.019 DEPARTMENT COMMUNICATIONS.

(A) News releases will be given by the Fire Chief or Assistant Fire Chief (other than the exceptions set forth in division (D) below). Only these two have the authority to override any part of the communication and news release rules.

(B) When a news release is given in the name of the Fire Department or as representing the Fire Department, it must first be cleared by the Fire Chief or Assistant Fire Chief.

(C) An employee or firefighter of the Fire Department will not make comments or news releases that are critical, false, negative or derogatory toward another person, group or organization in the name of the Fire Department. Nor shall they make these comments or news releases as a person representing the Fire Department. Nor shall they cause these comments or news releases to be made as a representative of the Fire Department. No part of this rule can be violated without first getting authorization from the Fire Chief or Assistant Fire Chief.

(D) No employee or firefighter may release the following to the news media:

(1) Name of a juvenile (under 18 years of age).

(2) Deceased or injured persons (unless the employee or officer is certain the next of kin has been notified). It is best to advise the person inquiring (based on the situation) to contact the Law Enforcement Agency or coroner for this information.

(3) Suspect names, individual victims names, witness names, business not directly related to an incident.

(E) *Accident information.* An employee or officer can release any accident information, but, if there is a death or injury, the employee or firefighter should send them to the appropriate police agency.

(F) *Case report information.*

(1) An employee or firefighter can release the nature of an incident and where it occurred, the person(s) involved (not juveniles).

(2) If the news media is on the scene of an incident, an employee or firefighter can give them a brief summary of the facts relating to the incident. Otherwise, the employee or firefighter should notify them it is still under investigation and to contact the Fire Chief or Assistant Fire Chief.

(G) If an employee or firefighter has any questions, the employee or firefighter should contact the Fire Chief or Assistant Fire Chief (or their appointed designee when they are both absent).

(H) The purpose of the rules regarding news releases:

(1) To protect the Fire Department and the city against lawsuits.

(2) To protect innocent people from damaging and unnecessary publicity.

(3) To make sure the public gets only the facts, as known.

(4) The victims of false, one-sided or poor news information are the innocent people involved and their families.

(5) The ultimate victim is the misled public. The Fire Department does not need to be, nor does it want to be, a party to this type of information.

(Ord. 1003, passed 6-13-00)

§ 34.020 HOURS; TIME OF DUTY; COMPENSATION, BENEFIT DAYS AND UNIFORMS.

(A) *Regular days off.*

(1) The scheduling of off-duty time for fire personnel is the responsibility of the Assigned Officer.

(2) Regular off days shall have priority over vacation days, personal days and holidays. Military leave shall take precedence over all other leave.

(3) The changing of off days is permitted upon authorization of the Assigned Officer if manpower levels permit. This shall not be done excessively in order to prevent confusion and abuse.

(4) Any change of any off day shall take place within the posted monthly work schedule and may not be carried over into the following work period.

(5) A firefighter may have another firefighter as his/her stand-in to fulfill his/her duties. This request for a substitute firefighter shall be made at least 48 hours in advance if possible to the Assigned Firefighter. The Assigned Firefighter shall have the right to affirm or deny this request. The substitute shall not assume rank other than his/her own and will not have authority over a rank similar to his/hers which is on the squad. The substitute firefighter must get permission from the Commander of his/her squad in order to fill in on another shift. This is to assure there will be no conflict on either's original shift.

(B) *Extra days off.* Vacation days, holidays, sick leave, military leave and bereavement leave are all governed by Chapter 36 of this Code.

(C) *Uniform, divisions and rank.*

(1) *Generally.* Firefighters in uniform must be dressed in strict conformity to the regulations issued by the Fire Chief. Firefighters shall be neat and clean in appearance when in uniform. Firefighters on duty shall maintain a polish on all leather and metal equipment. Firefighters shall be clean-shaven.

(2) *Hair for the uniformed male firefighter.* The hair shall be neat and clean at all times. It shall be trimmed and groomed as to present such an appearance. Maximum length of the hair on the back of the head for the male firefighter shall not extend below a line running horizontally from the bottom of the chin with the head in a normal upright position. Block-style haircuts are permissible. Hair on the side of the head may extend lower than the bottom one-third of the ear. The length of hair on the forehead shall not extend below the bottom one-third of the forehead.

(3) *Sideburns.* Sideburns will be of even width. They will be neatly trimmed, and the length will not extend past the bottom of the ear lobe. They will end with a clean-shaven horizontal line.

(4) *Mustaches.* Mustaches may be worn if neatly trimmed. Mustaches shall not extend lower than one-fourth inch below the corner of the mouth. Handlebar mustaches will be allowed as long as they are kept neat and tightly curled.

(5) *Beards and goatees.* All types of beards and goatees are prohibited except upon a doctor's statement that the wearing of a beard is for medical reasons.

(6) *Haircut for the uniformed female firefighter.* For safety purposes, long hairstyles are not permitted to be worn. The hair will not extend below the lower most edge of the shirt collar at the back of the neck. Hair in the front will be groomed so that it does not fall below the eyebrows. Hair may be

worn over the ears, as long as it is neat and clean and the bulk of the length does not interfere with the proper wearing of the hat. If the firefighter's hair is longer than the above policy, she must, while in uniform, conform to such a wearing style. Wigs are permitted as long as they conform.

(7) *Firefighter in charge.* Compliance with all the above standards shall be monitored by the firefighter in charge. The firefighter in charge shall notify the employee of any infraction of the above standards, and the employee shall before his/her next regular scheduled shift be in compliance with the standards. The Fire Chief will monitor firefighters in charge. Failure to comply shall result in disciplinary action.

(8) *Uniform.* A firefighter shall, unless ordered on special duty, wear the prescribed uniform and carry the equipment required by order of the Fire Chief, including all other equipment required for fire duty. He/she shall conspicuously display his/her shield on the left breast.

(9) *Color.* The basic color for the Fire Department is navy blue.

(10) *Shirt.* Navy blue in color Z960NP - Sentry Zipper Front - 100% polyester. Optional: 735DNZ New Generation with Zipper - 75% polyester - 25% wool. Chief: White Shirt, Z959WP Sentry Zipper Front - 100% polyester.

(11) *Trousers.* Navy blue in color. Length of trousers shall be sufficient to touch the heel of the shoe in the rear. Standard: 17561 Challenger with Lintrak. Optional: 7306 New Generation - 75% polyester - 25% wool.

(12) *Shoes.* Black shoes/boots in color with plain toes. Boots shall be polished.

(13) *Leather belt.* Black in color. Standard: 161 TU 11/4 wide. Optional: 999X9S Garrison with velcro closure.

(14) *Tie.* Long type. Navy blue in color for dress purposes.

(15) *Socks.* Navy blue in color. Optional: White socks. Socks must be worn in footwear that when standing or sitting they are not visible.

(16) Navy blue T.S.O.-shirts to be worn under uniform shirts.

(17) Changes made by permission of Fire Chief.

(D) *Class A dress uniform.*

(1) *Special detail.* Each firefighter will purchase one Class A uniform to be worn during funeral details, parades, special details, etc.

(2) *Generally*. Each firefighter will purchase and maintain Class A uniform with regular clothing allowance allocated by the Fire Department.

(3) *Blouse coat*. Double-breasted, navy blue, style #38802. Department patches will be placed on each shoulder. A badge will be worn on the left chest badge tab.

(4) *Trousers*. Navy blue, style #38200.

(5) *Dress shirt*. Long sleeve, white, style #35W5400.

(6) *Dress shoes*. Black, style #510.

(7) *Tie*. Clip-on, style #60001.

(8) *Gloves*. White parade, style #1051.

(9) *Bell Crown fire hat with badge*. White, Chief and Assistant Chief, style #113.

(10) *Bell Crown fire hat with badge*. Solid navy, Major, Captain, Lieutenant, firefighter, style #114.

(11) *Socks*. Socks will be black dress style.
(Ord. 1003, passed 6-13-00)

JOB DUTIES AND RESPONSIBILITIES

§ 34.021 FIRE CHIEF.

(A) The Fire Chief shall be the Commanding Officer of the entire Fire Department subject to the laws of the United States, the State, the ordinances of the city, and the rules and regulations set down by the Board of Public Works and Safety.

(B) This person shall have the power to promulgate such orders to the firefighters of the Fire Department as he/she may deem proper, and it shall be the duty of all firefighters to render to this person, and this person's orders, implicit obedience in conformity to the laws and ordinance and to such rules and regulations as the Board of Public Works and Safety may adopt from time to time.

(C) Duties of the Fire Chief are as follows:

(1) To plan the work of the Fire Department.

(2) To appraise the capacities and capabilities of the manpower for different types of police work.

(3) The Chief is to be the final authority on personnel matters such as the selection and supervision of his highest-ranking subordinates.

(4) To make final decisions as to the Department's priorities as related to the various tasks of the organization.

(5) To organize manpower and materials to meet the current needs.

(6) To establish administrative machinery that will produce satisfactory results with speed, accuracy, and minimum of friction and waste.

(7) To establish clear-cut channels of communication, authority and responsibility.

(8) To coordinate and integrate the various units of the Department so that they support and assist each other. To modify the program to combat current trends as revealed by study and analysis or records and reports.

(9) To represent the Department in contracts with other City Departments, outside law enforcement agencies and the public.

(10) To establish an honest and accurate reporting and recording system and medium for Departmental reporting to the public, to the police themselves, and to other law enforcement agencies.

(11) To develop an effective public relations program which will promote and maintain public understanding, public confidence and public support.

(12) To establish a comprehensive and understandable system of directives which will include policy statements, general and specific orders, training bulletins, standard operating procedures, and rules and regulations.

(13) To promptly execute all directives of the Mayor, and issue such orders to the Department as may be required for proper enforcement.

(14) To prepare the Department's budget supported by documentary proof of its justification.

(15) To train himself/herself and his/her key subordinates on the principles of organization and management of personnel.

(16) To train his/her key subordinates and other responsible fire personnel in administrative problem solving methodology.

(17) To initiate an adequate and progressive program of employee training at the recruit and in-service level.

(18) To develop the organizational structure in accordance with professional standards and, by consideration of sound span of control, integrate related activities under the control of intermediate subordinates. This person shall hold them accountable for effective conduct of such activities.

(19) To work for the strengthening and enactment of laws and ordinances for the restraint of criminal activities.

(20) To maintain an active alliance with professional police authorities and participate in programs for the mutual improvement of proficiency in combating organized crime and vehicular traffic problems.

(21) To determine and publish the order in which the ranking firefighters will succeed to command the organization in this person's absence.

(22) To establish and supervise a program of experienced analysis and continued planning in preparation for the development of facilities to fulfill prospective requirements of the organization.

(23) To administer the fiscal affairs of the organization in a manner calculated to convert available resources into maximum effective service, economically employed, in areas of demonstrable need.

(24) To visit and cause to be visited, at regular and unannounced times, all divisional property, bureaus, districts and units.

(25) To establish and maintain high ethical standards for the organizational personnel and exercise the vigilance necessary to sustain observance for such standards.

(26) To initiate investigation into all cases of alleged or apparent misconduct by organizational personnel. Suspend from duty and prefer charges against any guilty member preparatory to a hearing or apply alternative authorized disciplinary measures when deemed necessary.

(27) To insure prompt reporting to other city agencies of any important matter falling within their jurisdiction.

(28) To conduct periodic meetings of his/her staff to discuss and resolve current policy, establish policy as needed and disseminate information .

(29) Must be very knowledgeable in criminal, civil, business and city ordinance laws.
(Ord. 1003, passed 6-13-00)

§ 34.022 ASSISTANT FIRE CHIEF.

(A) It shall be the duty of the Assistant Fire Chief to act as Fire Chief with the same powers as enumerated above when the Fire Chief is absent or when otherwise prescribed by the Fire Chief.

(B) Duties of the Assistant Fire Chief are as follows:

(1) This person shall be responsible for all matters pertaining to the operation of all units of the Department assigned to their command.

(2) This person's administrative duties shall include planning, organizing and directing the activities of assigned personnel and maintaining harmonious relations with other divisions.

(3) This person shall exercise authority, commensurate with their responsibility and be accountable directly to the Fire Chief.

(4) This person shall promptly obey and transmit all orders of the Fire Chief insuring uniform interpretation and full compliance.

(5) This person shall familiarize himself or herself with administrative policy and execute the service program within his/her area of responsibility.

(6) This person shall examine reports for conformity with the procedure for complete investigation and reporting, referring improper or incomplete reports in reverse order through original channels for correction.

(7) This person shall engage in continuous research and planning so that procedures and policies are adequate to meet current demands for police service at minimum cost.

(8) This person shall make daily examination of assignment sheets, time reports and all miscellaneous reports concerning personnel.

(9) This person shall, at irregular and unannounced times, visit all units under his/her command, inspecting them for conditions and efficiency.

(10) This person shall submit to the Fire Chief, in prescribed form and detail, such reports as may be required to accurately reflect the problems, services and activities of the various units in the division.

(11) This person shall assure that the duties of his/her subordinates are properly discharged.

(12) This person shall be available for duty at all times in case of special need or emergency.

(13) Must be very knowledgeable in criminal, civil, business and city ordinance laws.

(14) Perform all other work related duties as designated by the Fire Chief.

(15) Assistant Fire Chief must be able to perform all duties of rank underneath him/her.
(Ord. 1003, passed 6-13-00)

§ 34.023 (RESERVED).

§ 34.024 CAPTAIN.

Duties of the Captain are as follows:

(A) This person is under the Assistant Fire Chief in the command and shall take command in the absence of the Assistant Fire Chief. Captains will be required to perform certain duties of the Assistant Fire Chief as officers in charge of shifts.

(B) They shall exercise authority commensurate with their responsibility.

(C) They shall promptly obey and transmit all orders insuring uniform interpretation and full compliance.

(D) They shall familiarize themselves with administrative policy and execute the service program within their area of responsibility.

(E) They shall be very knowledgeable in all criminal, civil, business and city ordinance laws.

(F) They will function in the capacity assigned by the Fire Chief.

(G) Perform all other work related duties, as designated by the Fire Chief.

(H) Captains will have the same duties as Lieutenants and firefighters as officer in charge.
(Ord. 1003, passed 6-13-00; Am. Ord. 1283, passed 3-17-08)

§ 34.025 LIEUTENANT.

Duties of the Lieutenant are as follows:

(A) Lieutenants shall take command of the squad in the absence of the Captain. Lieutenants will be required to perform certain duties of the Captain, including acting as officers in charge of shifts when so directed by the Fire Chief.

(B) Lieutenants are to carry out the orders and details of all Superior Officers.

(C) Lieutenants should be very knowledgeable in all federal, state and city ordinance laws, pertaining to fire service.

(D) Lieutenants shall function in the capacity assigned by the Fire Chief.

(E) Lieutenants shall have the same duties as a firefighter but in a supervisory capacity.
(Ord. 1003, passed 6-13-00; Am. Ord. 1283, passed 3-17-08)

§ 34.026 FIREFIGHTER.

(A) *Basic essential functions.*

(1) Respond to alarms by reporting to assigned vehicle, riding in assigned vehicle to the scene of the emergency or fire.

(2) Lift, carry, drag, lay and connect hose lines from hydrants and equipment to scene, carry resuscitators, tools and other equipment from vehicle to scene.

(3) Raise and climb ladders, crawl and walk on roofs and floors, open holes and windows with saws, axes, bars or hooks for access or ventilation.

(4) Combat fires by holding hoses, nozzles and directing streams of fog, chemicals or water and move into fire area, including into confined spaces and up stairs.

(5) Communicate by voice or radio with other firefighters and other emergency personnel to relay observations, equipment needs and other relevant information.

(6) Move people away from danger, including carrying unconscious people.

(7) Provide emergency medical treatment to injured people.

(8) Remove objects from buildings, place protective covers over objects, and monitor assigned areas for signs of recurrence.

(9) Conduct fire drills, critique drill participants on emergency procedure and instruct groups on such procedures.

(10) Participate in training on firefighting, emergency aid, emergency procedures and related subjects.

(11) Maintain departmental equipment and structures, which includes cleaning and washing walls and floors, hanging and drying fire hose, cleaning equipment and performing preventative maintenance on motorized equipment, and maintenance on all essential equipment carried on all apparatus.

(12) Maintain personal physical fitness.

(13) Perform all related duties as assigned to maintain an efficient department.

(B) *Environmental factors that affect job functions for firefighters.* The essential job functions for a firefighter are performed in, and affected by, the following environmental factors. A firefighter must:

(1) Operate both as a member of a team and independently at incidents of uncertain duration.

(2) Spend extensive time outside exposed to elements.

(3) Experience frequent transition from hot to cold and from humid to dry atmospheres.

(4) Tolerate extreme fluctuations in temperature and perform physically demanding work in hot (excess of 400 degrees Fahrenheit), humid (up to 100%) atmospheres while wearing equipment that significantly impairs body cooling mechanisms.

(5) Work in wet, icy, or muddy areas.

(6) Perform a variety of tasks on slippery, hazardous surfaces such as on rooftops or from ladders.

(7) Work in areas where sustaining traumatic or thermal injury is possible.

(8) Face exposure to carcinogenic dust such as asbestos, toxic substances such as hydrogen cyanide, acids, carbon monoxide, or organic solvents either through inhalation or skin contact.

(9) Face exposure to infectious agents such as hepatitis or HIV.

(10) Perform complex task during life threatening emergencies.

(11) Work for long periods of time, requiring sustained physical activity and intense concentration.

(12) Face life or death decisions during emergency conditions.

(13) Tolerate exposure to grotesque sights and smells associated with major trauma and burn victims.

(14) Make rapid transitions from rest to near maximal exertion without warm-up periods.

(15) Operate in environments of high noise, poor visibility, limited mobility, at heights, and in enclosed or confined spaces.

(16) Use manual or power tools in the performance of duties.

(17) Rely on senses of sight, hearing, smell, and touch to help determine the nature of the emergency, maintain personal safety, and make critical decisions in confused, chaotic, and potentially life threatening environments.

(18) Wear personal protective equipment that weighs in excess of 50 pounds while performing the essential functions of their job.

(19) Perform physically demanding work while wearing positive pressure breathing equipment. (SCBA).

(20) Be able to communicate with people effectively.

(C) *Paid part-time firefighters.* Part-time firefighters may be employed from time to time by the Board of Public Works and Safety upon the recommendation of the Mayor and Clerk-Treasurer. Paid part-time firefighters shall perform all of the basic essential functions of a firefighter as set out in § 34.026(A). In the performance of these essential functions, paid part-time firefighters may be subject to the environmental conditions set out in § 34.026(B). Paid part-time firefighters meeting these qualifications are not eligible to participate in the fire pension system established by IC 36-8-8, or any statute amendatory thereof or supplemental thereto, and § 34.004. Paid part-time firefighters shall not be eligible for group health insurance benefits, group life insurance benefits, longevity compensation, and other paid benefit days as provided to full-time employees of the city.

(Ord. 1003, passed 6-13-00; Am. Ord. 1413, passed 1-9-12)

§ 34.027 PROBATIONARY FIREFIGHTER.

During the one-year probationary period, the career firefighter will be required to obtain the following certifications:

(A) Firefighter I.

(B) First Responder or Basic EMT.

(Ord. 1003, passed 6-13-00)

VEHICLE POLICY

§ 34.028 POLICY.

All Fire Department personnel shall operate department vehicles in a safe, lawful, and prudent manner during operation of vehicles. Personnel issued department vehicles shall see to the maintenance

of his/her vehicle and shall keep the vehicle clean. All other department vehicles shall be kept clean by the shifts that are assigned to them. This policy shall remain subject to provisions of § 36.19, which describes the use of city vehicles by city personnel generally.

(Ord. 1003, passed 6-13-00)

§ 34.029 MAINTENANCE AND APPEARANCE.

(A) Only unleaded and/or diesel fuel is to be used in fire vehicles.

(B) Use only motor oil, which is specified. (Check with city garage.)

(C) All maintenance or repair of fire vehicles is to be performed at the city garage unless otherwise authorized by the Vehicle Maintenance Supervisor, Fire Chief or other duly designated authority.

(D) No mechanical or electrical alteration shall be made without authorization.

(E) The firefighter in charge of assigned vehicles is responsible for maintaining the vehicles in a neat and clean condition. He/she is also responsible for conducting such periodic maintenance checks as are necessary to assure that the mechanical and safety integrity of that vehicle is maintained.

(F) Upon daily inspection of Fire Department vehicles, any mechanical problems found will be reported to the Vehicle Maintenance Supervisor by the firefighter in charge for repairs.

(G) No holes shall be drilled in the exterior shell or interior of any fire vehicle without permission from the Vehicle Maintenance Supervisor, Fire Chief, or other duly designated authority.

(H) Fire vehicles shall be serviced on a yearly basis.

(Ord. 1003, passed 6-13-00)

§ 34.030 OPERATION OF VEHICLE.

(A) Jump starts for the general public are prohibited.

(B) No towing or pushing of other vehicles will be allowed.

(C) No article which might draw criticism from the general public or cause embarrassment to the Department will be carried or installed in or on any fire vehicle.

(D) Any and all damage must be reported to the Vehicle Maintenance Supervisor, Fire Chief, or other duly designated authority.

(E) Police radios will be left on and in audible position.

(F) Only a city employee can drive a city-township vehicle. City employees are not authorized to allow any family member, or anyone else, to operate the vehicle except under extreme or exigent circumstances.

(G) No firefighter shall drive or use an assigned vehicle in a "Signal 10" run while any member of the firefighter's family is in the vehicle.

(H) No firefighter shall drive or use an assigned vehicle in such a way as to reflect discredit on the Department. Examples such as, but not limited to:

- (1) Violation of any traffic law, unless necessary in the performance of duty.
- (2) Hauling of pets.
- (3) Improper dress.
- (4) Other indiscreet uses of the vehicle.

(I) The firefighter shall be responsible for the conduct of all passengers in his/her vehicle.

(J) Firefighters are not to use a department vehicle in personal employment or business.
(Ord. 1003, passed 6-13-00)

§ 34.031 PROMOTION GUIDELINES.

The purpose of this section is to ensure that all firefighters considered for promotion are dedicated, educated and display a professional attitude that is required to effectively and safely perform the duties of a fire officer.

(A) *Requirements to be promoted to Lieutenant.*

- (1) Minimum of two years with department.
- (2) Firefighter 2.
- (3) First Responder or Basic EMT.
- (4) Fire Officer 1.
- (5) Instructor 1.

(B) *Requirements to be promoted to Captain.*

- (1) Minimum of three years with the department.
- (2) Firefighter 2.
- (3) Fire Officer 1.
- (4) First Responder or Basic EMT.
- (5) Instructor 1.

(C) *Requirements for Assistant Chief.*

- (1) Minimum of five years with the department.
- (2) Firefighter 2.
- (3) Fire Officer 1.
- (4) First Responder or Basic EMT.
- (5) Instructor 1.

(D) All present lieutenants, captains and assistant chiefs of the Fire Department meeting the requirements set out herein for their particular ranks shall maintain these certifications under the provisions of either § 34.034(A), (B), or (C) throughout their tenure with the Fire Department.

(E) Any individual member of the Fire Department who presently holds the rank of Lieutenant, Captain or Assistant Chief that does not meet the requirements set out herein shall have two years from the effective date of this section to complete the requirements stated. If a member of the Fire Department holding these ranks does not complete these requirements within two years, the member will be demoted to the highest ranking position within the Fire Department which does not require these certifications.

(F) Any member of the Fire Department will not be promoted to a particular rank without first fulfilling the requirements set out in this section for that particular rank.
(Ord. 1003, passed 6-13-00; Am. Ord. 1060, passed 12-11-01; Am. Ord. 1293, passed 6-9-08; Am. Ord. 1453, passed 3-11-13)

*AUXILIARY FIREFIGHTING SERVICE***§ 34.040 CREATION AND ESTABLISHMENT.**

(A) That the Salem Auxiliary Fire Department is hereby established.

(B) That the Salem Board of Works and Safety shall now appoint and swear an additional number of auxiliary firefighters, to do special duty within the city.

(C) Auxiliary firefighters serving special duty shall be paid the same rate per diem when called upon for this service as is paid to members of the Department in their regular employment. The Board may determine the compensation of persons serving special duty in all other cases.

(D) Unless the safety board designates otherwise, the auxiliary firefighters are subject to the Fire Chief. If they are employees of departments other than the police or fire department, they shall obey the rules of their respective departments and conform to its discipline and orders to the extent these do not conflict with the orders of the Safety Board.

(E) Auxiliary firefighters directly connected with and created to augment the regular fire departments may wear a uniform the design of which is established by the Safety Board.

(F) A person other than an auxiliary firefighter may not wear a uniform the design of which is not easily distinguishable from or which conforms with respect to the color or design of the state police or a sheriffs patrol of the county in which the city is located or the police or fire department of the city. Special police officers and firefighters, during the term of their appointment, have those powers, privileges, and duties assigned to them by the safety board. They have these powers, privileges, and duties only while fulfilling the specific responsibilities for which the appointment is made.

(G) Persons appointed under this section may be removed by the safety board at any time without notice and without assigning any cause.

(H) In time of emergency the Safety Board may also detail members from the police or fire department for the use of any other department of the city government.

(I) The supervision of all appointments to the auxiliary firefighters, matters of promotions, discipline and operation administrative policy shall be by the Fire Chief or his or her designee following such procedures as the Chief shall establish by adopting rules and regulations governing the same.

(J) No person shall be appointed to the reserves until he or she has completed the training and probationary period specified by the chief, except those persons transferring to the reserves from a recognized police or fire agency or association.

(K) To be eligible for appointment to the firefighter auxiliary, an applicant must be:

- (1) At least 21 years of age;
- (2) A citizen of the United States; and
- (3) A resident of Washington County or one of the counties contiguous to Washington County.

(L) Applicants shall make application in the form and manner and undergo such employment background investigations, physical and academic examinations and interviews as the chief shall require.

(M) Any member of the auxiliary may be terminated by the chief for any reason or no reason, at the chief's discretion.

(N) The Salem Auxiliary Firefighter Program consists of up to ten trained and committed firefighters. These firefighters shall primarily respond to emergency calls and to assist with simultaneous incidents or large incidents requiring additional resources.

(O) Occasionally, Salem Auxiliary Firefighter will work a shift as requested by the Fire Chief to augment daily career firefighter staffing or to staff an engine responding to a mutual aid incident outside of our jurisdiction.

(Ord. 2018-11, passed 5-14-18)

CHAPTER 35: ORDINANCE VIOLATIONS BUREAU

Section

- 35.01 Establishment and administration
- 35.02 Schedule of fines
- 35.03 Violator entitled to trial; procedure
- 35.04 Noncompliance; enforcement
- 35.05 Liability for ordinance violation cost fees; other fees

§ 35.01 ESTABLISHMENT AND ADMINISTRATION.

A Salem Ordinance Violations Bureau is hereby established and the Clerk/Treasurer of the city shall be the administrator of the Salem Ordinance Violations Bureau pursuant to the provisions of IC 33-6-3-1 through 33-6-3-5.
(Ord. 669, passed 11-6-89)

§ 35.02 SCHEDULE OF FINES.

The following schedule of city code and ordinance violations shall be subject to admission of violation before the Clerk/Treasurer and penalties for such admitted violations shall be paid as follows:

<i>City Code Section</i>	<i>Violation</i>	<i>Civil Penalty Amount</i>
§ 51.99	Violation of Solid Waste Disposal Ordinance	\$10 (first offense) \$25 (second offense and subsequent offenses)
Chapters 71 and 73	Violation of Parking Regulations	\$10 (first offense) \$20 (second offense) \$50 (third and subsequent offenses)
Chapter 73 (Sched. IV)	Violation of Handicapped Parking	\$100
Chapter 90	Violation of Abandoned Vehicle Chapter	\$50

<i>City Code Section</i>	<i>Violation</i>	<i>Civil Penalty Amount</i>
Chapter 91	Violation of Animal Control Regulations	\$50 (first offense) \$100 (second offense) \$150 (third offense)
Chapter 99	Violation of Noise Regulations	\$50 (first offense) \$100 (second offense)* \$500 (third and subsequent offenses)*
Chapter 100	Violation of hours of public access to parks	\$50
*Within a 12-month period.		

(Ord. 669, passed 11-6-89; Am. Ord. 949, passed 9-14-98; Am. Ord. 1199, passed 8-9-05; Am. Ord. 1249, passed 4-10-07; Am. Ord. 1421, passed 5-14-12; Am. Ord. 1448, passed 12-10-12; Am. Ord. 1452, passed 5-13-13; Am. Ord. 1463, passed 7-8-13)

§ 35.03 VIOLATOR ENTITLED TO TRIAL; PROCEDURE.

(A) A person charged with an ordinance or municipal violation of those city code provisions set out in § 35.02 of this chapter, is entitled to a trial before a court as provided by civil trial rules, unless that person waives the right to a trial and enters an admission of the violation with the Office of the Clerk/Treasurer. Upon such an admission, the Clerk/Treasurer shall assess and receive from the violator the penalty amount as prescribed by the schedule of civil penalties set out in § 35.02 of this chapter.

(B) If a person charged with a violation as set out in § 35.02 of this chapter desires to exercise the right to a trial, that person shall appear before the Clerk/Treasurer and deny the violation or enter a written denial with the Clerk/Treasurer within ten days after receiving a citation therefor.

(Ord. 669, passed 11-6-89)

§ 35.04 NONCOMPLIANCE; ENFORCEMENT.

If a person either denies an ordinance or code violation as set out herein, or fails to pay and satisfy the civil penalty assessed by the Clerk/Treasurer after having entered an admission of violation, or fails to deny or admit the violation of any of the city code set out in § 35.02 of this chapter, then the Clerk/Treasurer shall report this fact to the City Attorney who may then initiate an action to enforce the ordinance pursuant to the provisions of IC 34-28-5-1.

(Ord. 669, passed 11-6-89)

§ 35.05 LIABILITY FOR ORDINANCE VIOLATION COST FEES; OTHER FEES.

(A) Any person charged with an ordinance violation referable to the Salem Ordinance Violations Bureau shall not be liable for any ordinance violation cost fees as provided by IC 33-19-5-2(a) if that person was charged with an ordinance violation set out in § 35.02 of this chapter, denied the violation under the provisions of § 35.03(B) of this chapter, and was tried pursuant to the provisions of IC 34-28-5 and subject to judgment entered by the court therein.

(B) Any person who is charged with a violation of any of the city code provisions set out in § 35.02 herein who either fails to satisfy a civil penalty assessed after having entered an admission of violation or fails to deny or admit an ordinance violation cited hereunder shall be subject to the civil penalty set out in § 35.02 and to the payment of ordinance violation costs as provided by IC 33-19-5-2(a) which is in the present amount of \$70 and shall be further subject to the Law Enforcement Continuing Education Program fee as provided by IC 33-19-6-7(c)(3) which is presently in the amount of \$3 in any action initiated under IC 34-28-5-1.

(Ord. 669, passed 11-6-89)

CHAPTER 36: PERSONNEL POLICIES

Section

- 36.01 Responsibility and authority of Mayor and Clerk/Treasurer
- 36.02 Hiring and promotions
- 36.03 Physical examination
- 36.04 Probationary period
- 36.05 Attendance; absenteeism
- 36.06.01 Work hours
- 36.06.02 Part-time employees
- 36.07 Holidays
- 36.08 Vacations
- 36.09 Sick leave
- 36.10 Military leave
- 36.11 Bereavement leave
- 36.12 Jury duty
- 36.13 Leave of absence
- 36.14 Lay-offs
- 36.15 Change of name or address
- 36.16 Employee resignation
- 36.17 Disciplinary and dismissal policy
- 36.18 Disciplinary absence criteria
- 36.19 Use of city vehicles
- 36.20 Change in personal data
- 36.21 Longevity pay
- 36.22 Uniforms
- 36.23 Personal days
- 36.24 Health insurance benefits
- 36.25 Drug and alcohol policy
- 36.26 Family and medical leave
- 36.27 Emergency conditions leave
- 36.28 Travel and conference policy

Cross-reference:

Firefighter pension benefits, see § 34.01

Use of information technologies, see Chapter 39

Statutory reference:

Local employee personnel policies, see IC 5-10-6-1

§ 36.01 RESPONSIBILITY AND AUTHORITY OF MAYOR AND CLERK/TREASURER.

(A) The Mayor has the responsibility and authority to manage and direct on behalf of the public the operations and activities of the city to the full extent authorized by law. This responsibility and activity shall include but not be limited to the following:

- (1) Directing the work of its employees;
- (2) Establishing policies;
- (3) Hiring, promoting, demoting, transferring, assigning and retaining employees;
- (4) Maintaining the efficiency of the city;
- (5) Relieving city employees from duties due to lack of work or other legitimate reasons; and
- (6) Taking actions necessary to carry out the mission of the city-owned utilities, including the appointment of employees responsible for the billing and collection of utility rates and charges as provided by law.

(B) The Clerk/Treasurer has the responsibility and authority to manage and direct on behalf of the public the operations and activities of the Office of the Clerk/Treasurer. This responsibility and activity shall include but not be limited to the following:

- (1) Appointing the number of deputies and employees for the effective operation of the office with the approval of the Common Council;
- (2) Directing the work of its deputies and employees;
- (3) Establishing policies; and
- (4) Hiring, promoting, terminating, demoting, transferring, assigning and retaining employees of the Office of Clerk/Treasurer.
(‘86 Code, § 5-10-6-1(a)) (Ord. 220, passed 4-3-61; Am. Ord. 509, passed 12-3-84; Am. Ord. 574, passed 3-2-87; Am. Ord. 761, passed 11-1-93)

§ 36.02 HIRING AND PROMOTIONS.

(A) The city shall recruit and hire without regard to race, color, creed, religion, age, sex, national origin, or handicap.

(B) When vacancies occur, preference may be given to current city employees who possess the qualifications necessary to fill the vacant position.

(1) Qualifications necessary for filling a vacant or new position in the Fire Department include the following:

(a) A physical agility test which reflects the essential functions of the job as set out in 35 IAC 2-9-1(C) and § 34.026.

(b) The strength, endurance and flexibility qualities set out in I.C. 36-8-3.2-3.5(A)(3).

(C) A satisfactory score on a general aptitude test as currently approved by the Board of Public Works and Safety.

(d) A formal oral interview conducted by designees of the Board of Public Works and Safety.

(2) Qualifications necessary for filling a vacant or new position in the Police Department include the following:

(a) A physical agility test which reflects the essential functions of the job as defined in 35 IAC 2-9-1(d).

(b) The strength, endurance and flexibility qualities set out in I.C. 36-8-3.2-3.5(A)(3).

(C) A formal oral interview conducted by designees of the Board of Public Works and Safety.

(C) If, in the judgment of the Mayor, a job cannot be filled by promotion from within, recruitment shall be conducted with each applicant being screened for the available position by using the following criteria:

- (1) Prior work experience with the city;
- (2) Education;
- (3) Work history;
- (4) Physical ability required for the position;
- (5) The applicant's ambitions and goals;
- (6) Special qualifications, licenses, or certification required by the position; and
- (7) Compliance with applicable law.

(D) Any new employee hired under the procedures of this chapter who had previously been an employee of the city for at least one year and resigned in good standing shall be entitled to the following exemptions from the city code or entitled to the benefits enumerated as follows:

(1) Any such employee would be compensated at the base pay level for the department to which he or she is assigned as established by the current compensation ordinance in force except that any such employee recruited for a specific position shall be paid at the compensation rate for that specific position as provided in the current compensation ordinance.

(2) The employee would be exempt from the probationary period provisions of § 36.04 of this chapter.

(3) Any such employee shall receive longevity pay pursuant to the provisions of § 36.21 of this chapter with credit for prior work experience with the city being applied to his or her longevity pay formula.

(4) Any such employee shall be entitled to the payment of sick leave pursuant to the provisions of § 36.09 of this chapter if they have completed at least one year or more of employment with the city at the time of their prior resignation in good standing.

(5) Any such employee so hired would be eligible upon rehiring for the payment of the city's portion of any life or health insurance then available to all city employees.

(6) Any such employee shall be subject to paid vacation provisions as set out in § 36.08 of this chapter in that they shall not be entitled to paid vacation until they have been employed one full year from the date of their re-employment.

(7) Any employee so rehired shall have his creditable service and other rights and benefits under the Public Employees Retirement Fund governed by the provisions of state law currently codified as IC 5-10.3-7-1 through 5-10.3-7-14 and IC 5-10.2-3-1 through 5-10.2-3-9 as long as the city participates in the Public Employees Retirement Fund. Under the terms of these state statutes, if the employee suspended his membership in the Public Employees Retirement Fund and withdrew contributions plus interest made, then that employee has no creditable service in the Public Employees Retirement Fund upon resuming his or her employment with the city. In this circumstance, the employee may have prior earned creditable service reinstated if the employee resumes employment with the city within one year after the prior resignation in good standing and repays to the Public Employees Retirement Fund the amount of contributions plus interest withdrawn plus an amount of interest as determined by current Public Employees Retirement Fund regulations. ('86 Code, § 5-10-6-1(b)) (Ord. 220, passed 4-3-61; Am. Ord. 509, passed 12-3-84; Am. Ord. 574, passed 3-2-87; Am. Ord. 1060, passed 12-11-01)

§ 36.03 PHYSICAL EXAMINATION.

All new employees shall be physically examined by a doctor selected by the city. This examination shall be paid for by the city. When the physical is complete, it shall be turned in to the Mayor's office. All employees shall pass the physical before being hired.

('86 Code, § 5-10-6-1(C)) (Ord. 220, passed 4-3-61; Am. Ord. 509, passed 12-3-84; Am. Ord. 574, passed 3-2-87)

§ 36.04 PROBATIONARY PERIOD.

(A) The probationary period is a trial working period and is part of the selection process, during which the employee's work and conduct shall be under close observation to determine his or her suitability and qualification for regular appointment to the position.

(B) The probationary period shall last for one year.

(C) The Mayor may remove any employee at any time during the probationary period, when he or she becomes satisfied that the employee is unable or unwilling to perform the duties of the position in a satisfactory manner, or that their habits and dependability do not merit continuance in the service or where an error or misrepresentation was made in the application.

(D) Probationary employees shall be entitled to bereavement leave, civic leave, personal leave (24 hours), reserve/national guard leave, and leave without pay. However, no probational employee shall be entitled to sick leave, vacation leave, or any other leaves intended for regular employees.

(E) Probationary employees shall be considered regular employees upon any promotion. ('86 Code, § 5-10-6-1(d)) (Ord. 220, passed 4-3-61; Am. Ord. 509, passed 12-3-84; Am. Ord. 574, passed 3-2-87; Am. Ord. 812, passed 11-14-94)

§ 36.05 ATTENDANCE; ABSENTEEISM.

(A) Any employee who is unable to report for work as scheduled shall notify his or her supervisor, preferably before the start of the employee's regular work hour. Excessive absenteeism shall be cause for disciplinary action.

(B) Any employee absent from work three consecutive days without reasonable cause and without notice to the city, unless substantial proof is furnished by the employee of his or her inability to report such absence, shall result in dismissal.

('86 Code, § 5-10-6-1(e)) (Ord. 220, passed 4-3-61; Am. Ord. 509, passed 12-3-84; Am. Ord. 574, passed 3-2-87)

§ 36.06.01 WORK HOURS.

(A) Working hours shall be set by the department head with approval of the Mayor. Accurate hours shall be maintained by the department head concerning the time each employee reported to work, the number of hours worked each day, and the number of days worked each week.

(B) For purposes of determining overtime compensation, all department heads shall be presumed to have an established minimum working week of 40 hours.

(C) For purposes of establishing overtime compensation, full-time clerical employees working for the Office of the Mayor, Office of the Clerk/Treasurer, and the City Water and Sewer Utilities shall have an established minimum working week of 35 hours.

(D) For purposes of establishing overtime compensation, the City Building Inspector, and the City Parks and Recreation Director shall be presumed to have an established minimum working week of 40 hours.

(E) For purposes of establishing overtime compensation, all other full-time city employees except law enforcement employees and fire protection employees shall have a regularly established minimum work week of 40 hours.

(F) Any employee who is paid by the hour and works more than 40 hours during any seven-day period shall be paid overtime at the rate of 1½ times their hourly rate of pay for such hours actually worked. The hourly rate of each employee shall include an allocation of the longevity pay as set out in § 36.21 of this chapter.

(G) Any department head and any employee whose regularly established minimum working week is 35 hours as established in divisions (C) and (D) of this section shall receive compensatory time off in lieu of cash payment at a rate of 1½ hours for each hour of employment actually worked over 40 hours per week for department heads and for over 35 hours per week actually worked for the clerical employees referred to in division (C) of this section and for the administrative employees referred to in division (D) of this section. The hourly rate of each employee shall include an allocation of the longevity pay as set out in § 36.21 of this chapter.

(1) (a) Employees, excepting public safety employees, receiving compensatory time off may not accrue more than 240 hours of compensatory time for hours worked after April 15, 1986. Any such employee who after April 15, 1986 has accrued 240 hours of compensatory time off shall, for additional overtime hours of work, be paid overtime compensation. Such cash payment for accrued compensatory time off shall be at the regular rate earned by the employee at the time the employee received such payment.

(b) Public safety employees, as that term is defined by 29 CFR 553.24(C), receiving compensatory time off may not accrue more than 480 hours of compensatory time for hours worked after January 1, 2008. Any such employee who after January 1, 2008 has accrued 480 hours of compensatory time off shall, for additional overtime hours of work, be paid overtime compensation. Such cash payment for accrued compensatory time off shall be paid at the regular rate earned by the employee at the time the employee received such payment.

(2) Employees with accrued compensatory time off shall request use of this compensatory time off and shall be permitted to use such time off within a reasonable period of time after making the

request, if such use does not unusually disrupt the operations of the department. The reasonable period for the exercise of this compensatory time shall be as defined in 20 CFR 553.25(C). The term “unusually disrupt” shall be defined by 20 CFR 553.25(d).

(3) Any employee who has accrued compensatory time off authorized to be provided under division (G)(1) of this section, shall, upon termination of employment, be paid for the unused compensatory time off at a rate of compensation not less than:

(a) The average regular rate received by such employee during the last three years of the employee’s employment; or

(b) The final regular rate received by such employee, whichever is higher.

(4) (a) Employees accruing compensatory time off after January 1, 2008 shall exercise such compensatory time off within two years of its accrual subject to the provisions of division (G)(2) above. If the employee is reasonably unable to exercise the compensatory time off during any two-year period, then the unutilized compensatory time off shall be paid in cash at the regular rate earned by the employee at the time the unutilized compensatory time off accrued.

(b) Public safety employees with 240 hours of unused accrued compensatory time as of January 1, 2008, and other employees with less than 240 hours of accrued compensatory time as of January 1, 2008, shall exercise such compensatory time off by December 31, 2010 subject to the provisions of division (G)(2) above. If the employee is reasonably unable to exercise the compensatory time off during any two-year period, then the unutilized compensatory time off shall be paid in cash at the regular rate earned by the employee at the time the unutilized compensatory time off accrued.

(H) Any law enforcement employee who is paid by the hour and works more than 171 hours during any 28-day work period shall receive compensatory time off in lieu of cash payment at the rate of 1.5 hours for each hour of employment actually worked over 171 hours during any 28-day work period.

(1) Law enforcement employees receiving compensatory time off may not accrue more than 24 hours of compensatory time per 28-day work period for hours worked after January 1, 1998. Any such employee who after January 1, 1998 has accrued 24 hours of compensatory time off during a 28-day period shall exercise such compensatory time off during the next 28-day work period following the previous 28-day work period during which such time the compensatory time off accrued.

(2) Law enforcement employees with accrued compensatory time off shall exercise such compensatory time off only with approval of the Chief of Police.

(3) Any law enforcement employee who has accrued compensatory time off authorized to be provided under division (H)(1) of this section, shall upon termination of employment, be paid for the unused compensatory time at a rate of compensation not less than:

(a) The average regular rate (including allocation of longevity pay as set out in § 36.21 of this chapter) received by such employee during the last 3 years of the employee's employment; or

(b) The final regular rate received by such employee including an allocation of the longevity pay as set out in § 36.21, whichever is higher.

(I) Any fire protection employee who is paid by the hour and works more than 144 hours during any 19-day work period shall be paid overtime at the rate of 1½ times their hourly rate of pay for such hours. The hourly rate of each employee shall include an allocation of the longevity pay as set out in § 36.21 of this chapter.

(J) All employees shall be allowed one ten-minute rest break for every four hours worked.

(K) All employees shall be allowed an unpaid lunch break of one hour duration.

(L) All employees shall be paid once every two weeks (14 days). ('86 Code, § 5-10-6-1(f)) (Ord. 220, passed 4-3-61; Am. Ord. 509, passed 12-3-84; Am. Ord. 574, passed 3-2-87; Am. Ord. 761, passed 11-1-93; Am. Ord. 904, passed 8-11-97; Am. Ord. 1066, passed 12-11-01; Am. Ord. 1284, passed 3-17-08; Am. Ord. 1487, passed 2-10-2014)

§ 36.06.02 PART-TIME EMPLOYEES.

(A) All part-time employees of the city and its municipal utilities are those employees who are employed on an average of less than 30 hours of service per week with respect to any month of their employment.

(B) Part-time employees are not eligible for and will not receive any employment benefit beyond their regular compensation, including the following:

- (1) Health insurance;
- (2) Group life insurance;
- (3) PERF contribution and participation; and
- (4) Longevity pay.

(C) Part-time employees shall be covered by workers' compensation statutes.

(D) Part-time employees shall be on probationary status for a period of one year as set out in § 36.04.

(E) When vacancies occur in full-time positions within the city, preference will be given to current full-time city employees who possess qualifications necessary to fill the vacant position. If there are no full-time employees available for consideration for such vacancy, then preference will be given to current part-time city employees who possess qualifications necessary to fill the vacant position.

(F) Part-time employees are considered at-will employees and serve at the pleasure of the part-time employee's department head and the Mayor.
(Ord. 1487, passed 2-10-2014)

§ 36.07 HOLIDAYS.

(A) The city shall observe 12 paid holidays:

- (1) New Year's Day;
- (2) Presidents Day;
- (3) Good Friday;
- (4) Memorial Day;
- (5) Independence Day;
- (6) Labor Day;
- (7) Thanksgiving Day;
- (8) The Friday after Thanksgiving Day;
- (9) Christmas Eve;
- (10) Christmas Day;

(11) Primary Election Day or a substitute day as determined by the Mayor for those years in which primary elections do not occur; and

(12) General Election Day or a substitute day as determined by the Mayor for those years in which general elections do not occur.

(B) All employees, before being paid for the above listed holidays, shall have worked the immediately preceding scheduled work day and the first work day thereafter, unless excused for vacation leave, sick leave, or personal leave.

('86 Code, § 5-10-6-1(g)) (Ord. 220, passed 4-3-61; Am. Ord. 509, passed 12-3-84; Am. Ord. 574, passed 3-2-87; Am. Ord. 761, passed 11-1-93; Am. Ord. 812, passed 11-14-94; Am. Ord. 1045, passed 7-10-01; Am. Ord. 1434, passed 10-8-12)

§ 36.08 VACATIONS.

(A) All employees shall be entitled to vacation leave with pay during an employment year, for a period consisting of the number of hours usually worked per week, if they have completed at least one full year of employment. The vacation schedule shall be as follows:

(1) *Forty hours per week employees.*

(a) For one year of employment, the employee shall be entitled to 40 hours vacation leave with pay during the employment year;

(b) For two years of employment, the employee shall be entitled to 80 hours vacation leave with pay during the employment year;

(c) For ten years of employment, the employee shall be entitled to 120 hours vacation leave with pay during the employment year;

(d) For 15 years of employment, the employee shall be entitled to 160 hours vacation leave with pay during the employment year; and

(e) After completion of 21 years of employment, the employee shall be entitled to 160 hours of vacation leave plus one additional day of eight hours for each additional year completed after 20 years of service.

(2) *Thirty-five hours per week employees.*

(a) For one year of employment, the employee shall be entitled to 35 hours vacation leave with pay during the employment year;

(b) For two years of employment, the employee shall be entitled to 70 hours vacation leave with pay during the employment year;

(c) For ten years of employment, the employee shall be entitled to 105 hours vacation leave with pay during the employment year;

(d) For 15 years of employment, the employee shall be entitled to 140 hours vacation leave with pay during the employment year; and

(e) After completion of 21 years of employment, the employee shall be entitled to 140 hours of vacation leave plus one additional day of seven hours for each additional year completed after 20 years of service.

(3) A police department employee regularly working a schedule of six eight-hour days shall have a vacation schedule as follows:

(a) For one year of employment, the employee shall be entitled to 48 hours vacation leave with pay during the employment year;

(b) For two years of employment, the employee shall be entitled to 96 hours vacation leave with pay during the employment year;

(c) For ten years of employment, the employee shall be entitled to 144 hours vacation leave with pay during the employment year;

(d) For 15 years of employment, the employee shall be entitled to 192 hours vacation leave with pay during the employment year; and

(e) After completion of 21 years of employment, the employee shall be entitled to 192 hours of vacation leave plus one additional day of eight hours for each additional year completed after 20 years of service.

(4) A police department employee regularly working a schedule of five eight-hour days shall have a vacation schedule as follows:

(a) For one year of employment, the employee shall be entitled to 40 hours vacation leave with pay during the employment year;

(b) For two years of employment, the employee shall be entitled to 80 hours vacation leave with pay during the employment year;

(c) For ten years of employment, the employee shall be entitled to 120 hours vacation leave with pay during the employment year;

(d) For 15 years of employment, the employee shall be entitled to 160 hours vacation leave with pay during the employment year; and

(e) After completion of 21 years of employment, the employee shall be entitled to 160 hours of vacation leave plus one additional day of eight hours for each additional year completed after 20 years of service.

(5) A fire department employee regularly working a shift of 24-hour days shall have a vacation schedule as follows:

(a) For one year of employment, the employee shall be entitled to 72 hours vacation leave with pay during the employment year;

(b) For two years of employment, the employee shall be entitled to 144 hours vacation leave with pay during the employment year;

(c) For ten years of employment, the employee shall be entitled to 216 hours vacation leave with pay during the employment year;

(d) For 15 years of employment, the employee shall be entitled to 288 hours vacation leave with pay during the employment year; and

(e) After completion of 21 years of employment, the employee shall be entitled to 288 hours of vacation leave plus one additional day of 24 hours for each additional year completed after 20 years of service.

(6) A fire department employee regularly working a shift of five eight-hour days shall have a vacation schedule as follows:

(a) For one year of employment, the employee shall be entitled to 40 hours vacation leave with pay during the employment year;

(b) For two years of employment, the employee shall be entitled to 80 hours vacation leave with pay during the employment year;

(c) For ten years of employment, the employee shall be entitled to 120 hours vacation leave with pay during the employment year;

(d) For 15 years of employment, the employee shall be entitled to 160 hours vacation leave with pay during the employment year; and

(e) After completion of 21 years of employment, the employee shall be entitled to 160 hours of vacation leave plus one additional day of eight hours for each additional year completed after 20 years of service.

(7) A radio dispatcher that works fluctuating hours shall have a vacation schedule as follows:

(a) For one year of employment, 32 hours of vacation;

(b) For two years of employment, 64 hours of vacation;

(c) For ten years of employment, 96 hours of vacation;

(d) For 15 years of employment, 128 hours vacation; and

(e) After completion of 21 years of employment, the employee shall be entitled to 128 hours of vacation leave plus one additional day of eight hours for each year thereafter.

(B) No employee shall take more than two weeks (80, 70, 96 or 144 hours) of paid vacation at one time, unless permission is granted by the Mayor.

(C) Unused vacation time may not be accumulated from year to year.

(D) Vacations shall be scheduled and approved by the department head in accordance with the needs of the department. He or she shall make every effort to honor the vacation request of the employee.

(E) Department heads shall schedule vacations according to seniority of employee when possible.

(F) If an employee resigns or is terminated within six months of his or her preceding anniversary of employment, that employee shall be entitled to one-half of the above stipulated number of days of vacation leave during that employment year. If the affected employee has taken more than one-half of the regular stipulated number of days of vacation leave, the difference in pay between the number of vacation days actually taken and one-half the regular stipulated number of vacation days, shall be deducted from the final paycheck.

(G) If an employee resigns or is terminated after six months from his or her preceding anniversary of employment, that employee shall be entitled to all of the regular stipulated number of days of vacation leave during that employment year, but shall not be entitled to vacation leave pay for the following year.

(H) An employee shall request vacation leave at least one week before the beginning of that leave.

(I) Payment of vacation benefits to a city employee may be made in advance of any vacation taken by such an employee during the current calendar year upon specific approval by the Board of Public Works and Safety in those situations where the employee is either ill or temporarily disabled and has exhausted sick leave days and all accrued compensatory time off.

('86 Code, § 5-10-6-1(h)) (Ord. 220, passed 4-3-61; Am. Ord. 509, passed 12-3-84; Am. Ord. 574, passed 3-2-87; Am. Ord. 761, passed 11-1-93; Am. Ord. 812, passed 11-14-94; Am. Ord. 1045, passed 7-10-01; Am. Ord. 1066, passed 12-11-01; Am. Ord. 1431, passed 9-10-12; Am. Ord. 2016-1549, passed 6-13-16)

§ 36.09 SICK LEAVE.

(A) An employee shall receive sick leave benefits only for those days he or she is absent from work because of illness or injury.

(B) All employees shall be entitled to sick leave with pay during an employment year, for a period consisting of the number of days usually worked per week, if they have completed at least one full year of employment. The sick leave schedule shall be as follows:

(1) *Forty hours per week employees.*

(a) For one year of employment, an employee shall be entitled to 40 hours sick leave with pay during the employment year;

(b) For two years of employment, the employee shall be entitled to 80 hours sick leave with pay during the employment year;

(c) For ten years of employment, the employee shall be entitled to 120 hours sick leave with pay during the employment year;

(d) For 15 years of employment, the employee shall be entitled to 160 hours sick leave with pay during the employment year.

(2) *Thirty-five hours per week employees.*

(a) For one year of employment, an employee shall be entitled to 35 hours sick leave with pay during the employment year;

(b) For two years of employment, the employee shall be entitled to 70 hours sick leave with pay during the employment year;

(c) For ten years of employment, the employee shall be entitled to 105 hours sick leave with pay during the employment year; and

(d) For 15 years of employment, the employee shall be entitled to 140 hours sick leave with pay during the employment year.

(3) A police department employee regularly working a schedule of six eight-hour days shall have a sick leave schedule as follows:

(a) For one year of employment, an employee shall be entitled to 48 hours sick leave with pay during the employment year;

(b) For two years of employment, the employee shall be entitled to 96 hours sick leave with pay during the employment year;

(c) For ten years of employment, the employee shall be entitled to 144 hours sick leave with pay during the employment year; and

(d) For 15 years of employment, the employee shall be entitled to 192 hours sick leave with pay during the employment year.

(4) A police department employee regularly working a schedule of five eight-hour days shall have a sick leave schedule as follows:

(a) For one year of employment, an employee shall be entitled to 40 hours sick leave with pay during the employment year;

(b) For two years of employment, the employee shall be entitled to 80 hours sick leave with pay during the employment year;

(c) For ten years of employment, the employee shall be entitled to 120 hours sick leave with pay during the employment year; and

(d) For 15 years of employment, the employee shall be entitled to 160 hours sick leave with pay during the employment year.

(5) A fire department employee regularly working a shift of 24-hour days shall have a sick leave schedule as follows:

(a) For one year of employment, an employee shall be entitled to 72 hours sick leave with pay during the employment year;

(b) For two years of employment, the employee shall be entitled to 144 hours sick leave with pay during the employment year;

(c) For ten years of employment, the employee shall be entitled to 216 hours sick leave with pay during the employment year; and

(d) For 15 years of employment, the employee shall be entitled to 288 hours sick leave with pay during the employment year.

(6) A fire department employee regularly working a shift of five eight-hour days shall have a sick leave schedule as follows:

(a) For one year of employment, an employee shall be entitled to 40 hours sick leave with pay during the employment year;

(b) For two years of employment, the employee shall be entitled to 80 hours sick leave with pay during the employment year;

(c) For ten years of employment, the employee shall be entitled to 120 hours sick leave with pay during the employment year; and

(d) For 15 years of employment, the employee shall be entitled to 160 hours sick leave with pay during the employment year.

(7) A radio dispatcher that works fluctuating hours shall have a sick leave schedule as follows:

- (a) For one year of employment, 32 hours of sick leave;
- (b) For two years of employment, 64 hours of sick leave;
- (c) For ten years of employment, 96 hours of sick leave; and
- (d) For 15 years of employment, 128 hours of sick leave.

(C) If an employee is absent from work three or more consecutive days the department head shall require the employee to present a doctor's certificate pertaining to the employee's illness or injury. If that certificate is not presented, the employee shall not receive sick leave compensation regardless of how many days have been accrued for sick leave.

(D) Sick leave accrued during past working years, with a cap of nine years, may be reinstated, provided that specific approval for these benefits shall be obtained from the Board of Public Works and Safety for those employees who have exhausted their current regular sick leave, without disturbing their paid vacation or personal days, or accrued compensatory time off, because of illness or temporary disability.

(E) If an employee received payment under the worker's compensation or pension law, the amount received from worker's compensation or pension shall be instead of the city's regular stipulated sick leave benefits.

('86 Code, § 5-10-6-1(h)) (Ord. 220, passed 4-3-61; Am. Ord. 574, passed 3-2-87; Am. Ord. 761, passed 11-1-93; Am. Ord. 812, passed 11-14-94; Am. Ord. 1066, passed 12-11-01; Am. Ord. 1431, passed 9-10-12; Am. Ord. 2016-1549, passed 6-13-16)

§ 36.10 MILITARY LEAVE.

(A) All city employees in the United States Armed Forces shall be entitled to all rights, including reinstatement in accordance with applicable law.

(B) Officers and employees of the city are entitled to leave of absence without loss of vacation time from their municipal duties and shall be allowed compensation from the city for up to 15 days in any calendar year.

(C) The compensation shall be in addition to the military pay received by the city officer or employee.

(D) The compensation shall only be paid for regular days of city employment missed. The compensation should not result in bonus pay, such as pay for weekends, regular days off, and the like.

(E) The compensation shall be for up to 15 days military leave of absence during each calendar year and the days are not required to be consecutive.

(F) The officer or employee is required to furnish the city proper certification with training duty orders to support the claim for compensation while absent on military duty. ('86 Code, § 5-10-6-1(i)) (Ord. 220, passed 4-3-61; Am. Ord. 509, passed 12-3-84; Am. Ord. 574, passed 3-2-87; Am. Ord. 761, passed 11-1-93; Am. Ord. 812, passed 11-14-94)

§ 36.11 BEREAVEMENT LEAVE.

(A) Any employee who experiences a death in his or her immediate family shall be entitled to bereavement leave. Bereavement leave payment shall be made for three working days for which the employee would otherwise have been scheduled to work.

(B) The day after the funeral or memorial service shall be considered the last day of bereavement leave.

(C) For the purposes of this section, *IMMEDIATE FAMILY* shall be defined as the employee's spouse, child, brother, sister, mother, father, mother-in-law, father-in-law, grandparents, grandchildren, step-children, step-parents, step-brother, step-sister, and step-grandparents.

(D) The employee, if requested by the city, shall present evidence of death and proof of relationship of the deceased to the employee, and proof of attendance at the funeral, signed by the funeral director. ('86 Code, § 5-10-6-1(j)) (Ord. 220, passed 4-3-61; Am. Ord. 761, passed 11-1-93; Am. Ord. 812, passed 11-14-94; Am. Ord. 2016-1549, passed 6-13-16)

§ 36.12 JURY DUTY.

All employees serving jury duty shall be paid by the city for each day, or part thereof, spent in performing that duty if the employee would have been scheduled to work on that day. Compensation shall be limited to the difference between the jury fee and eight hours at the employee's regular hourly rate. Employees who report for jury duty and are dismissed therefrom after serving less than one-half of the normal work day are expected to return to work. This section shall also apply to any employee who is summoned for an interview or an examination to qualify for a selection to a jury if otherwise eligible as provided in this chapter.

('86 Code, § 5-10-6-1(k)) (Ord. 220, passed 4-3-61; Am. Ord. 509, passed 12-3-84; Am. Ord. 574, passed 3-2-87; Am. Ord. 761, passed 11-1-93)

§ 36.13 LEAVE OF ABSENCE.

(A) A leave of absence shall not be granted except for good and justifiable reasons. All requests for a leave of absence shall be presented in writing to the Mayor's office.

(B) The reasons for the request and the requested duration of the leave shall be included in the request.

(C) All requests must be approved by the Mayor and the Board of Public Works and Safety. ('86 Code, § 5-10-6-1(l)) (Ord. 220, passed 4-3-61; Am. Ord. 509, passed 12-3-84; Am. Ord. 574, passed 3-2-87; Am. Ord. 761, passed 11-1-93)

§ 36.14 LAY-OFFS.

(A) Any employee may be laid off or demoted because of lack of work or funds, or the abolition of positions. The order of lay offs or demotions shall be determined by the employee's seniority in his or her department, with the most recently hired being laid off first. During the calendar year of the layoff and the next ensuing calendar year after the layoff, employees shall be recalled in reverse order with the last employee laid off being recalled first. In order to be eligible for recall, the laid-off employee must be able to perform all essential functions of their employment position. At the conclusion of the next ensuing calendar year after the year of the layoff, such employees may be recalled only at the discretion of the Mayor or at the discretion of the Clerk-Treasurer for those employees laid off after being appointed by the Clerk-Treasurer pursuant to I.C. 36-4-10-7(b).

(B) Any member of the Salem Police Department or the Salem Fire Department who is laid off for financial reasons, shall have reinstatement rights as set out in I.C. 36-8-4-11, and any statute supplemental thereto or amendatory thereof.

(C) At least two weeks notice shall be given in advance of any lay-off or demotion to any employee.

(D) Employees who are laid off shall be entitled to all accrued vacation pay. ('86 Code, § 5-10-6-1(m)) (Ord. 220, passed 4-3-61; Am. Ord. 509, passed 12-3-84; Am. Ord. 574, passed 3-2-87; Am. Ord. 761, passed 11-1-93; Am. Ord. 1483, passed 12-9-13)

§ 36.15 CHANGE OF NAME OR ADDRESS.

Any employee who moves or changes his or her name or address shall notify his or her

department head of this change, indicating any new address or telephone number.
(‘86 Code, § 5-10-6-1(n)) (Ord. 220, passed 4-3-61; Am. Ord. 509, passed 12-3-84; Am. Ord. 574, passed 3-2-87; Am. Ord. 761, passed 11-1-93)

§ 36.16 EMPLOYEE RESIGNATION.

(A) An employee shall submit his or her notice of resignation to their department head or to the Mayor at least two weeks before his or her termination date in order to resign in good standing. Employees who resign in good standing shall be entitled to all accrued vacation pay as defined in this chapter at the date of termination.

(B) Any employee absent for three consecutive days without notification of valid reason or with no legitimate reason for not notifying the city of his or her absence may be considered to have resigned. (‘86 Code, § 5-10-6-1(o)) (Ord. 220, passed 4-3-61; Am. Ord. 509, passed 12-3-84; Am. Ord. 574, passed 3-2-87; Am. Ord. 761, passed 11-1-93)

§ 36.17 DISCIPLINARY AND DISMISSAL POLICY.

(A) Any employee who fails to maintain at all times proper standards of conduct or who violates any of the following rules shall be subject to disciplinary action, including discharge.

(B) The following acts of conduct are prohibited:

- (1) Smoking in areas expressly posted as No Smoking Areas.
- (2) Falsely stating or making claims of injury.
- (3) Falsifying any reports or records, including personnel, absence, sickness and city records.
- (4) Violating any safety rules or failure to use protective equipment provided.
- (5) Reporting for work under the influence of drugs, possessing drugs illegally or engaging in the use or sale of illegal drugs on city premises.
- (6) Possessing or consuming intoxicating beverages on city premises or reporting for work under the influence of intoxicating beverages.
- (7) Fighting.
- (8) Horseplay.
- (9) Abuse or destruction of city property, tools, or equipment.

(10) Unauthorized or unexcused absence or tardiness.

(11) Immoral conduct or indecency.

(12) Interfering with fellow employees.

(13) Punching in or out any time card not belonging to that employee.

(14) Insubordinate conduct or refusal to follow orders.

(15) Unlawful or improper conduct during nonworking hours which affect the employee's relationship to his or her job, fellow employees, or the city's property, reputation or goodwill in the community.

(16) Excessive use of telephones for personal calls or conducting personal business during working hours.

(17) Misusing or removing from the premises, without proper written authorization, city property, records, or other material.

(18) Using profane or abusive language.

(19) Neglecting his or her job, duties, and responsibilities.

(20) Failure to meet expectations of employment performance within one year after first unsatisfactory employment review.

(C) No employee may be disciplined or terminated except for cause.

(D) A department head who determines that disciplinary action for a minor offense is appropriate, shall issue an oral warning for the first offense to the employee. The department head shall issue a written reprimand for the second offense. For the third and each subsequent offense, more severe disciplinary actions may be taken. Department heads shall give copies of all written disciplinary actions taken against the affected employee to the Mayor and Board of Public Works and Safety. A violation of the city's Drug and Alcohol Policy is not a minor offense and shall be considered a serious violation of the personnel policy making the employee subject to immediate suspension from employment and discharge from his/her employment by the Mayor and Board of Public Works and Safety.

(E) Each non-public safety city employee, who is not designated as a department head, supervisor, or upper level policy-making employee, shall have his or her employment performance evaluated by his or her department head on an annual basis during the month of July. If an employee receives an

unsatisfactory review in writing at this time, the employee will then be re-evaluated during the following January. If the employee receives an unsatisfactory review during the January evaluation, the employee’s performance evaluation will then be submitted to an Employment Review Board consisting of the Mayor, the employee’s department head, two City Council members designated by the Mayor, and one Board of Public Works and Safety member designated by the Mayor. This Employment Review Board shall then establish a written employment improvement plan for the employee which shall be reviewed by the employee with the Employment Review Board. The employee’s compliance with the employment improvement plan will then be reviewed the following July with the Employment Review Board. If the Employment Review Board finds that the employee is not in substantial compliance with the employment improvement plan, the employee will then be subject to termination under the provisions of Salem City Code § 36.17(B)(20).

(F) The following disciplinary actions or measures shall be taken only following approval by the Mayor and Board of Public Works and Safety:

- (1) Reduction in pay;
- (2) Demotion;
- (3) Suspension; and
- (4) Discharge.

(G) The city shall give one week notice to an employee upon termination. However, the city may temporarily suspend an employee without notice if a serious violation of the personnel policy has occurred. In this case, the employee shall then be discharged by the Mayor and the Board of Public Works and Safety after due notice to the employee and a hearing thereon. Employees who are discharged shall be entitled to all accrued vacation pay at the time of termination.

(‘86 Code, § 5-10-6-1(p)) (Ord. 220, passed 4-3-61; Am. Ord. 574, passed 3-2-87; Am. Ord. 761, passed 11-1-93; Am. Ord. 812, passed 11-14-94; Am. Ord. 955, passed 10-12-98; Am. Ord. 1358, passed 5-10-10)

§ 36.18 DISCIPLINARY ABSENCE CRITERIA.

(A) For the purposes of this section, **ABSENTEEISM** means being absent from work on any scheduled work day, even though the employee has reported off.

(B) Disciplinary action which may be required as a result of excessive absenteeism or tardiness shall be based on occurrences in accordance with the following:

- (1) Each period of consecutive absence shall be recorded as one occurrence, regardless of the number of days duration.

(2) Absence due to the following shall not be considered as an occurrence for purposes of disciplinary action or control:

- (a) Jury duty;
- (b) Death in the immediate family, as that term is defined under § 36.11 of this chapter;
- (C) Military leave;
- (d) Disciplinary layoff;
- (e) Work-incurred injury;
- (f) Vacation.

(C) Excused absence occurrences shall be:

(1) Those substantiated by a doctor's certificate, whether the employee was on medical leave of absence or not.

(2) Authorized personal leave of absence. Leaves of absence shall only be granted when the period of absence is to be three or more days.

(3) Absence and tardiness records shall be maintained for a consecutive 12-month period, starting with the employee's first occurrence, which includes tardiness or leaving early. All absence and tardiness records and warning slips which are one or more years old shall not be considered for purposes of disciplinary action under this chapter.

(D) Any employee whose total absent or tardy days within a consecutive 12-month period reaches these amounts shall be subject to discipline:

- (1) Ten days: verbal warning from the department head.
- (2) Fifteen days: written reminder from the department head.
- (3) Twenty days: termination.

('86 Code, § 5-10-6-1(q)) (Ord. 220, passed 4-3-61;; Am. Ord. 574, passed 3-2-87; Am. Ord. 761, passed 11-1-93; Am. Ord. 812, passed 11-14-94)

§ 36.19 USE OF CITY VEHICLES.

(A) The use of city vehicles shall be at the discretion of the Mayor and Board of Public Works and Safety.

(B) No city vehicle shall be used by an employee for private use unless authorized by the responsible department head or Mayor.

(C) Any employee who uses a city vehicle without authorization shall be subject to disciplinary action.

('86 Code, § 5-10-6-1(R)) (Ord. 220, passed 4-3-61; Am. Ord. 509, passed 12-3-84; Am. Ord. 574, passed 3-2-87; Am. Ord. 761, passed 11-1-93)

§ 36.20 CHANGE IN PERSONAL DATA.

Each employee shall submit a written notice to his or her department head immediately following any change in the employee's personal data.

('86 Code, § 5-10-6-1(s)) (Ord. 220, passed 4-3-61; Am. Ord. 509, passed 12-3-84; Am. Ord. 574, passed 3-2-87; Am. Ord. 761, passed 11-1-93)

§ 36.21 LONGEVITY PAY.

(A) All full-time city employees, except elected officials, shall receive, in addition to his or her monthly base salary, an additional compensation based on the employee's length of service with the city.

(B) (1) The following formula shall be used in computing longevity pay beginning January 1, 2009: For each year of city service after January 1 of the calendar year following one full year of service: \$104 per year for each additional year of service. However, if the employee begins employment before July 1 of any year, his/her, additional longevity compensation shall begin on the first day of the calendar year following his or her employment. No longevity pay shall accrue after 20 full years of service.

(2) All employees shall retain their full years of longevity service that existed as of December 31, 2008 and shall continue to receive longevity pay for all years of service existing as of December 31, 2008 at the longevity compensation rate established by Ordinance No. 1267.

(C) In determining the amount of additional compensation to which any employee is entitled, the length of employee service shall be computed without regard to whether that service was rendered before or after January 1, 1966.

(D) The calculation of the length of employee service shall include all time spent on temporary leave of absence for military service in the United States armed forces, if that employee has returned to duty with his or her department within 60 days after having been honorably discharged from that service.

(E) A new city employee may, at the sole discretion of the Council following a favorable recommendation by the Mayor, be given longevity benefits based on similar or identical employment with another employer, either private or governmental.

(F) All employees of the city Fire Department shall receive compensation under this section so long as the contract between the city and Washington Township of Washington County, in effect on August 2, 1965, remains unchanged.

(G) For purposes of this section, a **FIRST CLASS PATROL OFFICER** is defined as a police officer, other than the Chief of Police, with 20 years of active service as a regular permanent police officer in the police department.

(H) For purposes of determining the amount of annual pension to be received by retired members of the police department, the term **SALARY OF A FIRST CLASS PATROL OFFICER** shall include the current salary paid in the most recent budget of the city to a first class patrol officer.

(I) When an employee resigns or is terminated from his or her employment, he or she is entitled to the remaining balance of his or her earned longevity pay in his or her last paycheck from the city. ('86 Code, § 5-10-6-1(t)) (Ord. 220, passed 4-3-61; Am. Ord. 726, passed 7-9-81; Am. Ord. 761, passed 11-1-93; Am. Ord. 812, passed 11-14-94; Am. Ord. 1045, passed 7-10-01; Am. Ord. 1267, passed 9-11-07; Am. Ord. 1305, passed 9-2-08; Am. Ord. 2018-26, passed 11-13-18)

§ 36.22 UNIFORMS.

All city employees except elected officials, office personnel, law enforcement personnel and fire protection personnel, shall be provided with seven shirts, seven pants and one jacket. Each employee shall wear the uniforms during their working day. Each employee will be responsible for cleaning their uniforms. Employees shall not wear the uniforms during off-duty hours except when traveling to and from their residence and their employment with the city.

(Ord. 761, passed 11-1-93)

§ 36.23 PERSONAL DAYS.

(A) All full-time employees are entitled to three personal days.

(B) Personal days are to be prearranged by the employee and department head.

(C) Hours for these days are as follows:

(1) *Eight hour employee.* Eight hours per day, for a total of 24 hours.

(2) *Seven hour employee.* Seven hours per day, for a total of 21 hours.

(3) *Fire department employee.* Twenty-four hours per day, for a total of 72 hours.

(D) Personal days will be excluded during the first 90 days of new hire employment.

(Ord. 812, passed 11-14-94; Am. Ord. 1104, passed 2-11-03; Am. Ord. 2020-19-C, passed 1-11-21)

§ 36.24 HEALTH INSURANCE BENEFITS.

(A) The city shall continue to purchase group health insurance policies for its active and retired employees (until a retired employee becomes eligible for Medicare) with the City Council to decide the city's cost sharing of health insurance premiums with its employees, both active and retired, at its discretion during the annual budget establishment process.

(B) The city shall continue to purchase group health insurance policies for its active and retired public safety employees (unless a retired employee becomes eligible for Medicare) with the City Council to decide the city's cost sharing of health insurance premiums with its employees, both active and retired, at its discretion during the annual budget establishment process.

(C) The Clerk-Treasurer shall establish the procedures for the enrollment of regular city employees and public safety employees, both active and retired, in the group health insurance coverage made available by the city.

(Ord. 913, passed 9-8-97; Am. Ord. 1094, passed 1-14-03)

§ 36.25 DRUG AND ALCOHOL POLICY.

(A) (1) *Purpose.* The purpose of this administrative guide is to set forth the procedures for the implementation of controlled substance and alcohol use and testing of employee applicants and current employees pursuant to the City of Salem’s Substance Abuse Policy. These procedures are intended as a guide only, and are in no way intended to alter any existing relationship between City of Salem and any employee.

(2) City of Salem’s drug and alcohol program administrator designated to monitor, facilitate, and answer questions pertaining to these procedures is the Clerk-Treasurer of the City of Salem, Indiana.

(B) *Abbreviations, terms, and definitions.*

(1) *Abbreviations.*

BAT	Breath Alcohol Technician
CDL	Commercial Drivers’ License
CMV	Commercial Motor Vehicle
DER	Designated Employer Representative
DHHS	Dept. of Health and Human Services
DOT	Department of Transportation
EAP	Employee Assistance Program
EBT	Evidential Breath Testing Device
MRO	Medical Review Officer
STT	Screening Test Technician
SAMHSA	Substance Abuse and Mental Health Services Administration

(2) *Definitions.*

ADULTERATED SPECIMEN. A specimen that contains a substance that is not expected to be present in human urine, or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine.

ALCOHOL. Intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol including methyl and isopropyl alcohol.

ALCOHOL CONCENTRATION (OR CONTENT). Alcohol in a volume of breath (shown as grams of alcohol/210 liters of breath) as indicated by an evidential breath test.

ALCOHOL USE. Consumption of any beverage, mixture, or preparation, including medications, containing alcohol.

BREATH ALCOHOL TECHNICIAN (BAT). An individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath measurement (EBT) device.

CONFIRMATION TEST.

1. *In alcohol testing:* a second test, following a screening test with a result of 0.02 or greater, that provides quantitative data of alcohol concentration.

2. *In controlled substances testing:* a second test to identify the presence of a specific drug or metabolite. In order to ensure reliability and accuracy, this test is separate from and uses a different technique and chemical principle from that of the screening test.

CONFIRMATION VALIDITY TEST. A second test performed on a urine specimen to further support a validity test result.

CONTROLLED SUBSTANCES. In this regulation, the term 'drugs' and 'controlled substances' are interchangeable and have the same meaning. Unless otherwise provided, these terms refer to: marijuana, cocaine, opioids, opiates, phencyclidine (PCP), and amphetamines, including methamphetamines.

DESIGNATED EMPLOYER REPRESENTATIVE (DER). An employee authorized by the employer to take immediate action(s) to remove employees from safety-sensitive duties and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer.

DILUTE SPECIMEN. A specimen with creatinine and specific gravity values that are lower than expected for human urine.

EBT (or EVIDENTIAL BREATH TESTING DEVICE). An *EBT* approved by the National Highway Traffic Safety Association (NHTSA) for the evidential testing of breath and placed on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices" (CPL).

EMPLOYEE. Any person who operates a commercial vehicle (CMV), including: *full time, regularly employed employees, *casual, intermittent or occasional employees, "leased

employees, *independent, owner-operated contractors who are either directly employed by or under lease to an employer or who operates a commercial motor vehicle at the direction of or with the consent of an employer.

EVIDENTIAL BREATH TESTING (EBT) DEVICE. A device used for alcohol breath testing that has been approved by the National Highway Traffic Safety Administration.

INITIAL DRUG TEST. The test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

INITIAL VALIDITY TEST. The first test used to determine if a specimen is adulterated, diluted, or substituted.

MEDICAL REVIEW OFFICER (MRO). A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program. The ***MRO*** must have knowledge of substance abuse disorders and appropriate medical training to interpret and evaluate an individual's confirmed positive test, medical history and other relevant biomedical information.

PERFORMING (A SAFETY SENSITIVE FUNCTION). An employee is considered to be performing a safety-sensitive function when he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive function.

PRIMARY SPECIMEN. The urine specimen bottle that is opened and tested first by the laboratory to determine whether the employee has a drug or drug metabolite in his or her system; and for the purpose of validity testing. The ***PRIMARY SPECIMEN*** is distinguished from the split specimen, defined in this section.

SCREENING TEST (INITIAL TEST).

1. *In alcohol testing:* a procedure to determine if an employee has a prohibited concentration of alcohol in his or her system.

2. *In controlled substance testing:* a screen to eliminate 'negative' urine specimens from further consideration.

SPLIT SPECIMEN. A part of the urine specimen that is sent to a first laboratory and retained unopened, and which is transported to a second laboratory in the event that the employee requests that it be tested following a verified positive test of the primary specimen or a verified adulterated or substituted test result.

SUBSTANCE ABUSE PROFESSIONAL (SAP). A licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional or certified addiction counselor with knowledge of any and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

SUBSTITUTED SPECIMEN. A specimen with creatinine and specific gravity values that are so diminished that they are not consistent with human urine.

(C) *Provisions.*

(1) *Applicability.*

(a) This policy applies to all city employees that utilize a commercial drivers license (CDL) in the course of their employment. A valid CDL is required to operate the type of equipment listed below:

1. A vehicle having a gross vehicle weight rating (GVWR) as assigned by the manufacturer of 26,001 pounds or more; or
2. A combination vehicle having a gross combination weight rating of 26,001 pounds or more; or
3. A vehicle that is designed to transport 16 or more passengers, including the driver; or
4. A vehicle requiring a placard to transport hazardous materials.

(b) This policy also applies to all other city employees performing safety-sensitive functions as follows:

1. Driving, including the time spent waiting to be dispatched;
2. Being in or on a commercial motor vehicle;
3. Engaging in public safety communications and dispatching;
4. Securing a vehicle and taking all of the other precautionary measures following an accident;
5. Repairing, obtaining assistance or attending a disabled vehicle;

6. Loading or unloading, including supervising or assisting in loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, giving or receiving receipts for a shipment being loaded or unloaded;
7. Engaging in law enforcement activities including activity as a Police Reserve;
8. Engaging in fire prevention and fire protection activities including those on a volunteer basis;
9. Engaging in animal control activities;
10. Engaging in the management of or providing safety services for the Myers Memorial Swimming Pool;
11. Handling or using chemicals for the processing or treatment of water or wastewater;
12. Operation and monitoring of equipment and machinery used in the processing or treatment of water or wastewater; and
13. Inspecting, servicing or conditioning equipment.

(2) *Prohibited conduct.* The following shall be considered “prohibited conduct” for purposes of this policy for all employees covered in this policy.

(a) No employee shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcoholic concentration of .02 or greater. An employee is considered to be performing a safety-sensitive function if he/she is actually performing, ready to perform, or immediately available to perform any of the on-duty functions defined in division (C)(1) of this section, *Applicability*.

(b) No employee shall be on duty or operate a commercial vehicle or city vehicle while the employee possesses alcohol.

(C) No employee shall use alcohol while performing safety-sensitive functions.

(d) No employee shall perform safety-sensitive functions within four hours after using alcohol.

(e) No employee required to take a post-accident test shall use alcohol for eight hours following the accident or until he or she undergoes a post-accident test, whichever occurs first.

(f) No employee shall refuse to submit to a post-accident, random, reasonable suspicion, return-to-duty, or follow-up alcohol or drug test.

(g) No employee shall report for duty or remain on duty when the employee uses any controlled substance, except when use is pursuant to the written instructions of a physician who has advised the employee and the city that the substance does not adversely affect the employee's ability to operate a commercial motor vehicle or city vehicle.

(3) *Prescription medication and/or other medication use.*

(a) An employee is prohibited from reporting for duty or remaining on duty when the employee uses any controlled substance, except when the use is pursuant to the written instruction of a physician who has advised the employee that the substance will not adversely affect their ability to safely perform their duties. The employee must provide the city with written proof of such medical advice. The city can decide if the employee can remain at work or on the city premises and what work restrictions, if any, are deemed necessary.

(b) Any employee who is using a prescribed drug or other medication, which is known or advertised as possibly affecting or impairing judgment, coordination or other senses, (including dizziness or drowsiness), or which may adversely affect the employee's ability to perform work in a safe and productive manner, must notify the city prior to starting work or entering any city premises. The city will decide if the employee can remain at work or on the city premises and what work restrictions, if any, are deemed necessary.

(C) Ingestion of products that contain hemp will not be an acceptable explanation for testing positive for marijuana.

(4) *Refusal to test.* Refusal to submit to the types of drug and alcohol tests employed by the city will be grounds for refusal to hire employee/applicant(s) and to discipline existing CDL employee(s) or non-regulated employee(s) covered by this policy. A refusal to test would include any of the following situations:

(a) Failing to appear for any test within a reasonable time after being directed to do so;

(b) Failing to remain at the testing site until the testing process is completed;

(C) Failure to provide a breath sample, saliva sample or urine sample as directed;

(d) Failure to permit, if the situation requires, the observation or monitoring of providing a urine specimen;

(e) Failure to provide a urine, breath or saliva specimen within required time frames may be considered a refusal. If an employee cannot provide a sufficient quantity of urine or breath, he/she will be directed to be evaluated by a physician of employer's choice. If the physician cannot find a legitimate medical explanation for the inability to provide a specimen (either breath or urine), it will be considered a refusal to test. In that circumstance the employee has violated one of the prohibitions of the regulations;

(f) Failure or decline to take an additional drug test the employer or collector has directed you to take;

(g) Failure to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER as part of a "shy bladder" or "insufficient breath" situation;

(h) Failure to cooperate with any part of the testing process and/or conduct that would obstruct the proper administration of a test, (e.g., refusing to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process);

(i) For an observed collection, fail to follow the observer's instruction to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process;

(j) Possess or wear a prosthetic or other device that could be used to interfere with the collection process;

(k) Admit to the collector or MRO that you adulterated or substituted the specimen;

(l) A report from the MRO that you have a verified adulterated or substituted test result;
and

(m) Refusing to sign step two of the alcohol testing form.

(5) *Types of tests.* All employees subject to this policy will also be tested for drugs and/or alcohol, if applicable, for the following reasons: pre-employment, post-accident, random and reasonable suspicion, return to duty and follow-up. Return-to-duty and follow-up testing will apply only to violations of the alcohol portion of this policy by non-regulated employees. Employees covered by a DOT agency will be tested in accordance with DOT regulations and the recommendations of the substance abuse professional.

(a) *Pre-employment testing.*

1. This applies to all applicants applying for a CDL position, current employees transferring or bidding other job classifications requiring such a test, and to all other positions referred to under division (C)(1) of this section, *Applicability*.

2. As a condition of employment, the applicants applying for a CDL covered position shall provide the city with a written authorization for all previous employers within the past three years to release drug and alcohol testing records as the DOT FMCSA regulations require. Within 30 days of performing a safety-sensitive function, DOT regulations require that the city obtain, to the extent available, certain drug and alcohol testing records from the employee's previous employers for the previous three years. All applicants who are required to have or obtain a CDL must submit to a urine drug test unless a qualifying pre-employment exemption can be documented.

3. As a condition of employment for those applicants applying for positions referred to under division (C)(1) of this section, *Applicability*, the applicant must submit to the urine drug test within 24 hours of receiving a conditional offer of employment at the medical or clinical facility designated by the Designated Employer Representative. Failure to submit to the urine drug test at the designated facility within 24 hours after the conditional offer of employment shall result in the withdrawal of the conditional offer of employment.

(b) *Random testing.*

1. The city conducts random drug and alcohol testing on all employees covered by this policy except those employees described in § 36.25(C)(1)(b)(7), (8), and (9). Separate random pools will be established and maintained for CDL covered employees and other non-regulated employees. The city will submit all employees' names to a random selection system. The random selection system provides an equal chance for each employee to be selected each time random selection occurs. Random selections will be reasonable spread throughout the year. The city will drug test, at a minimum, 50% of the average number of employee positions in each calendar year or at a rate established by the DOT for the given year. The city will select, at a minimum, 10% of the average number of employee positions in each calendar year for random alcohol testing, or at the rate established by the DOT for the given year. Random selection by its very nature, may result in employees being selected in successive selections or more than once a calendar year.

2. If an employee is selected at random, for either drug or alcohol testing, a city official will notify the employee. Once notified, the employee must proceed to the designated collection site immediately. If the employee does not go to the collection site as soon as possible after notification, such conduct may be considered a refusal to test.

(C) *Post-accident testing.*

1. Following any accident, the employee must contact City of Salem as soon as possible. The employee must submit to a Federal DOT drug and alcohol test any time he or she is involved in an accident where (1) a fatality is involved; or (2) the employee receives a citation for a moving violation arising from the accident that involved: injury requiring medical treatment away from the scene; or one or more vehicles having to be towed from the scene.

2. The employee shall follow the instructions from the city or its representative to complete required testing.

3. In addition to the testing requirements outlined above for those holding a CDL, all employees who are covered by this policy will be tested for the following situations:

- a. Any accident/incident involving injury or death;
- b. Any accident/incident involving property damage;
- c. Any accident/incident where the employee receives a citation under state or local law for a moving traffic violation arising from the incident;
- d. Any accident/incident in which an employees involvement or actions may have contributed or cannot be completely discounted as a contributing factor to an accident/incident which results in damage over \$1,000 or personal injury; or
- e. The incident results in a lost time injury.

4. Any time a post-accident drug or alcohol test is required, it must be performed as soon as practical. If no alcohol test can be made within eight hours, attempts to perform an alcohol test shall cease. If no urine collection can be obtained for the purpose of post-accident drug testing within 32 hours, attempts to make such collection shall cease. An employee is prohibited from consuming alcohol between the time of the accident and the test.

5. In the event that federal, state, or local officials conduct breath or blood test for the use of alcohol and/or urine tests for the use of controlled substances following an accident, employees must comply with law enforcement personnel requests. The city may request testing documentation from such agencies, and may ask the employee to sign a release allowing the city to obtain such test results.

6. In the event an employee is so seriously injured that the employee cannot provide a sample of urine, breath or saliva at the time of the accident, the employee must provide necessary authorization for the city to obtain hospital records or other documents that would indicate the presence of controlled substances or alcohol in the employee's system at the time of the accident.

(d) *Reasonable suspicion testing.* Reasonable suspicion for requiring an employee to submit to drug and/or alcohol testing shall be deemed to exist when an employee manifests physical, behavioral, speech or performance symptoms or reactions commonly attributed to the use of controlled substances or alcohol. Such employee conduct must be witnessed by a supervisor who is trained in compliance with Part 382.603 of the Federal Motor Carrier Safety Regulations. A supervisor observing such conditions will take the following actions immediately:

1. Confront the employee involved, and keep under direct observation until the situation is resolved;
2. Secure the DER's concurrence to observations. After discussing the circumstances with the DER, arrangements will be made to observe or talk with the employee. If he/she believes, after observing or talking to the employee, that the conduct or performance problem could be due to substance abuse, the employee will be immediately required to submit to a breath test or urinalysis. If the employee refuses to submit to testing for any reason, the employee will be informed that continued refusal would result in disqualification from performing any safety-sensitive function;
3. Employees will be asked to release any evidence relating to the observation for further testing. Failure to comply may subject the employee to subsequent discipline or suspension from driving duties. All confiscated evidence will be receipted for with signatures of both the receiving supervisor, as well as the provider;
4. The DER shall, within 24 hours or before the results of the controlled substance test are released, document in writing the particular facts related to the behavior or performance problems that led to the reasonable suspicion test and maintain this documentation in appropriate DOT files; and
5. The DER shall remove or cause the removal of the employee from the city-owned vehicle and ensure that the employee is transported to an appropriate collection site and thereafter to the employee's residence or, where appropriate, to a place of lodging. Under no circumstances will that employee be allowed to continue to drive a city vehicle or his/her own vehicle until a confirmed negative test result is received.

(e) *Return to duty testing.* A return to duty test will be required for all covered employees who have violated this policy (test positive, have an adulterated or substituted specimen or refuse to test) and who remain employed by the city. The employee may not return to duty until he or she passes (tests negative) a drug test and/or tests below a .02 for breath alcohol and the MRO or SAP and the city have determined that the employee may return to duty.

(f) *Follow-up testing.* Any employee who has returned to work following a violation of this drug and alcohol policy will be subject to follow-up testing. At a minimum six follow-up tests will be required within the first twelve months following an employee's return to work, and less frequently during the next four years. Employees covered by a DOT agency will be tested in accordance with DOT regulations and the recommendations of the substance abuse professional.

(6) *Controlled substance testing protocol.*

(a) *Urine collection procedures.*

1. The testing procedure starts with the collection of a urine specimen.
2. Collection procedures will follow the specific guidelines set forth by the U.S. Department of Transportation as outlined in the published collection procedures guidelines.
3. Employees will be directed to empty their pockets and display the contents to the collector.
4. Employees will be allowed privacy during the collection process except as noted in division (C)(6)(a)5. below.
5. Observed collections will be required if:
 - a. The specimen is determined invalid and there is no medical explanation;
 - b. The specimen is determined to be negative-dilute with a creatinine value > 2 mg/dl but < 5 mg/dl;
 - c. The collector observes evidence of an employee's attempt to tamper with the specimen;
 - d. The temperature of the specimen is out of range;
 - e. The specimen appears to have been tampered with; or
 - f. The test is a return-to-duty or follow-up test.
6. Observed collections are required on DOT return-to-duty and follow-up tests.
7. As part of the collection process, the specimen provided will be split into two portions; a primary specimen and a secondary (split) specimen.
8. If the employee is unable to provide 45 ml of urine, the DOT "shy bladder" rule will apply. The employee will have up to three hours to provide the required 45 ml, and may consume up to 40 ounces of fluids during this time period. The employee will be required to be monitored during the waiting period.
9. After collection, the specimen will be submitted to a SAMHSA certified laboratory for testing.

(b) *Laboratory procedures.*

1. Drug testing will be performed through urinalysis. Urinalysis will test for the presence of drugs and/or metabolites of the following controlled substances: marijuana, cocaine, opioids, opiates, amphetamines, including methamphetamine, and phencyclidine (PCP). Other substances may also be included in the testing to comply with state and Federal laws, rules, and recommendations.

2. The SAMHSA certified laboratory will perform initial screenings on all primary specimens. In the event that the primary specimen tests positive, a confirmation test of that specimen will automatically be performed. If the confirmatory test is positive it will be reported to the Medical Review Officer (MRO) as a positive.

(C) *Validity testing.*

1. The laboratory must also perform validity testing on each specimen received. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted. The following will be measured: creatinine level, specific gravity, and pH. In addition, all specimens will be tested for known adulterants. An initial validity test is performed first, followed by a confirmation test if required.

2. All laboratory results will be reported by the laboratory to a MRO designated by the city or its agents.

(d) *MRO procedures.*

1. All tests results will undergo a review process by the MRO.

2. Negative test results will be reported directly to the city by the MRO.

3. Positive, adulterated or substituted results will be handled in the following manner by the MRO.

a. Before reporting a positive, adulterated or substituted test result to the city, the MRO will attempt to contact the employee to discuss the test result.

b. The employee is required to discuss the result with the MRO. The employee will be allowed to explain and present medical documentation to explain any permissible use of a drug.

c. For adulterated or substituted results, the employee must demonstrate that he or she did produce or could have produced urine, through physiological means, a specimen meeting the creatinine and specific gravity criteria of a substituted or adulterated specimen.

d. If the MRO is unable to contact the employee directly, the MRO will contact the DER designated in advance by the city, who shall, in turn, contact the employee and direct the employee to contact the MRO. Upon being so directed, the employee shall contact the MRO immediately or, if the MRO is unavailable, at the start of the MRO's next business day.

e. If, after failing to contact the MRO within 72 hours after being instructed to do so by the DER, or if the employee cannot be contacted at all within ten days, or the employee expressly declines the opportunity to discuss the test, the MRO may verify the test as positive or a refusal.

f. In the MRO's sole discretion, a determination will be made as to whether a result is verified as positive, negative or considered a refusal.

g. After any verified positive or refusal to test determination, the employee may petition the MRO to reopen the case for reconsideration.

(e) *Diluted specimens.* If a test is reported as negative and diluted, it will be the policy of the city to require an immediate recollect for another test. The employee will be given the minimum possible advance notice to report for another test. The result of this second test will become the test of record. If the second test is also negative and diluted, the test will be accepted as a valid test and no additional testing will be required in regard to the most recent diluted test. If the employee is directed to take another test after the first negative and diluted test and declines to do so, this will be considered a refusal to test and have the consequences of a refusal to test.

(f) *Medical information disclosure.* Pursuant to DOT regulations, if, in the MRO's opinion, any information provided may mean a medical disqualification or represent a safety hazard, such as the use of certain prescription drugs, the MRO must disclose this to the employer. Individual test results for employee applicants and employees will be released to the city and will be kept strictly confidential unless consent for the release of the test result has been obtained. Any individual who has submitted to drug testing in compliance with this procedure is entitled to receive the results of such testing upon written request.

(g) *Safeguards for the integrity of the drug testing process.*

1. The collector must obtain photo identification from the employee or identification by supervisor prior to administering the test.

2. The employee will be asked to wash their hands.

3. The employee signs the chain of custody form signifying the correctness of data for test reporting.

4. Electronic communication of test results from the laboratory into the MRO reporting system with no external human intervention.

5. The specimen container and specimen bottles are individually wrapped and unwrapped in employee's presence.

6. After the specimen is provided in a reasonable time, the collector inspects it for sufficient volume, temperature and signs of tampering. If a specimen is not provided, the employee will be referred to a MRO to determine whether there is a valid medical reason. If there is, the employee must still attempt to provide a specimen each time their name is drawn.
7. After the specimen is given to the collector, the remaining collection procedures are conducted in employee's view.
8. The specimen bottles and shipping container are sealed with tamper evident seals.
9. The employee will be asked to sign the seals covering the specimen bottles identifying they were sealed in their presence.
10. The specimen bottle seals match the identifying seals on the chain of custody form.
11. The laboratory will check the specimen bottles upon receipt to insure the seal has not been broken. If the seal has been broken the laboratory will report the test as cancelled.
12. Blind sample submission through the laboratory for quality control.
13. A collector who has completed the qualification training as mandated in CFR Part 40 as amended will perform the collection.

(7) Split specimen testing protocol.

(a) An employee may request that the "split" portion of his/her specimen be tested at a different SAMHSA laboratory if he/she was notified by the MRO that his/her test result was positive, adulterated or substituted. The request must be made to the MRO within 72 hours of being notified of a verified positive, adulterated or substituted result. The MRO will arrange for all procedures to be done in accordance with split specimen testing procedures.

(b) The cost of a split specimen test will be the responsibility of the employee. The city will withhold the amount of the cost of testing the split from the employee's pay unless other arrangements are acceptable to both the employee and the City. If the employee makes a timely request (within 72 hours) to the MRO for the split portion to be tested, the MRO shall immediately make arrangement with the laboratory to initiate the process.

(8) Alcohol testing protocol.

(a) Alcohol tests will be conducted by a trained Breath Alcohol Technician (BAT) or Screening Test Technician (STT). Screening tests may be done using an evidential breath testing device

(EBT) or non-evidential screening device approved by the National Highway Traffic Safety Administration. Confirmatory tests will be done by a trained BAT using an evidential breath testing device. The employee shall report to the alcohol testing site as notified by the city. The employee shall follow all instructions given by the alcohol technician.

(b) If the result of a screening test is a breath alcohol concentration (BAC) of less than 0.02, no further testing is authorized. Any initial test indicating a BAC of .02 or greater will be confirmed on an EBT operated by a BAT. The confirmation test will be performed no sooner than 15 minutes and no later than 30 minutes following the completion of the initial test. In the event the confirmation test indicates a BAC of .020 to .039, the employee shall be removed from duty for 24 hours or until his/her next scheduled on-duty time, whichever is longer. Employees with tests indicating a BAC of .04 or greater are considered to have engaged in prohibited conduct, which may result in disciplinary action up to and including termination. All alcohol tests shall be performed just prior to, during, or just after performing a safety sensitive function.

(C) Alcohol testing safeguards for employee's protection.

1. The BAT must obtain employee's photo identification prior to administering the test.
2. An individually wrapped mouthpiece will be opened and inserted into the EBT for the employee test.
3. The National Highway Traffic Safety Administration approves the EBT that is used.
4. Calibration checks are frequently performed to insure the EBT is working efficiently.
5. If the screening test indicates a 0.02 or greater, a confirmation test will be administered.
6. An air blank will be administered prior to the confirmation test with a 0.000 reading.
7. An individually wrapped mouthpiece will be inserted for the confirmation test.
8. The BAT has completed the required training course in the correct operation of the EBT.

(9) *Educational materials.*

(a) The company shall provide:

1. Educational materials will be given to DOT covered employees that explain the requirements of Part 382.601 of the Federal Motor Carrier Safety Administration regulations, consequences of violating the regulations, and the company's policies and procedures with respect to meeting these requirements.

2. Non-regulated employees will also receive information that explains the company policy, the consequences of violating the regulations, and the company's policies and procedures with respect to meeting these requirements.

3. Other materials concerning the effects of alcohol and controlled substances use on an individual's health, work and personal life.

(b) Employees are required to attend an educational meeting(s) to discuss the city's policies and procedures and to review all materials covered by this procedure. Each employee is required to sign a statement (certificate of receipt) certifying that he or she has received a copy of these materials described in Part 382.601 of the Federal Motor Carrier Regulations. The city shall provide these materials to each employee prior to the start of alcohol and controlled substance testing and to each employee subsequently hired or transferred into a position requiring driving a commercial vehicle.

(D) *Disciplinary procedures.* Any employee who has a positive test for alcohol (.02 BAC or greater) or controlled substances or has refused to test is considered in violation of this policy and to have committed an act of prohibited conduct as defined in § 36.17(B)(5) or (6) of the Salem City Code. This employee is not qualified to drive a commercial motor vehicle and will be immediately removed from safety-sensitive duty. The consequences of testing positive or refusing to test are outlined below.

(1) An employee who tests positive or who refuses or fails to submit to a drug test for post accident, job transfer or classification purposes, probable cause or random testing will be suspended immediately and shall be subject to discharge by the Board of Public Works and Safety, except for police and firefighters who shall be disciplined pursuant to state statute. DOT covered employees will be referred to a qualified SAP for further assistance as required by federal regulations.

(2) An employee who refuses to submit to a post-accident alcohol test as required will be terminated. DOT covered employees will be referred to a qualified SAP for further assistance as required by federal regulations.

(3) An employee who refuses to submit to a probable cause alcohol test will be suspended for 45 days without pay and must submit to and receive a negative BAC test at his/her own expense at an approved collection site prior to returning to work.

(4) An employee who refuses to submit to a random alcohol test will be considered to have committed insubordinate conduct in violation of § 36.17(B)(14) of the Salem City Code and shall be subject to immediate suspension from employment and discharged from his/her employment by the Mayor and the Board of Public Works and Safety pursuant to the provisions of § 36.17 of the Salem City Code.

(5) An employee with a positive alcohol test will be required to participate in the following manner:

(a) The employee will be referred to a qualified SAP who will recommend diagnostic and evaluation services through the city's treatment agreement;

(b) Should an inpatient rehabilitation program be recommended, the employee will be encouraged to participate through the city's treatment agreement. This program will be at the employee's expense reduced by the extent provided through the city's health and accident insurance contract; and

(c) Should an outpatient rehabilitation program be recommended, the employee will be encouraged to participate through the city's treatment agreement. This program will be at the employee's expense reduced by the extent provided through the city's health and accident insurance contract.

(6) An employee testing positive for alcohol for a second time within a 12-month period shall be subject to immediate termination.

(7) Employee's who are terminated from a treatment program by the SAP for non-compliance as outlined by the SAP will be terminated.

(8) Any found evidence of beer cans, liquor bottles, cigarettes, pills, substances or materials in question or any controlled substance will be collected and immediately turned over to the Salem Police Department.

(E) *Substance abuse evaluation, return to duty, and follow-up testing.*

(1) Any employee who is removed from service is not qualified to perform safety-sensitive duties requiring a commercial driver's license or other duties as assigned to non-regulated employees. Such employee shall be provided with the names, addresses, and telephone numbers of qualified substance abuse professionals (SAPs). In addition, a 12-month probationary period shall be imposed. To be able to be returned to a CDL or non-regulated position, the following steps must be completed:

(a) Complete an initial evaluation with a SAP;

(b) Complete any rehabilitation and/or education required by the SAP;

(C) Complete a second evaluation with the SAP and obtain written confirmation of satisfactory progress and/or completion of all recommendations;

(d) Complete a return-to-duty test that is issued with a negative result; and

(e) As a condition of continued employment, the employee will be required to submit to a minimum of six unannounced follow up tests in the next 12 months after returning to work.

(2) Follow-up testing is separate from and in addition to the city's reasonable suspicion, post-accident, and random testing procedures. The schedule for follow-up testing shall be unannounced and in accordance with the instructions of the SAP. Follow-up testing may continue for a period of up to 60 months following the employee's return to duty. No fewer than six tests shall be performed in the first 12 months of the follow-up testing. The cost of any SAP evaluation, prescribed treatment and follow-up testing shall be borne by the employee.

(F) *Voluntary disclosure.* The city encourages personnel to seek help if they feel they have a problem with drug or alcohol misuse before it becomes a matter of discipline with the city. The city will assist any employee who voluntarily discloses to the city that he/she believes that he/she has a drug or alcohol problem in seeking professional help to address their problem. This voluntary step of self-identification is the responsibility of the individual, and with the exception of certain conditions, will alleviate the requirement for disciplinary action if brought to the city's attention prior to any testing conducted by the city. Upon disclosure of a problem to city personnel, the employee will be removed from all safety-sensitive duties without pay until completion of all steps outlined in division (E) of this section. The employee will be responsible for all costs associated with this process. If the employee makes no commitment to overcoming the problem and achieving a satisfactory level of performance, attendance, or behavior, then termination of employment will result.

(G) *Confidentiality and release of information.*

(1) Under no circumstances, unless required or authorized by law, will alcohol or drug testing information or results for any employee or applicant be released without written request from the applicable employee.

(2) The city may release information as follows.

(a) Copies of the results of alcohol or drug testing to an identified person provided the employee has provided written consent.

(b) Copies of information requested by the Secretary of Transportation, any DOT agency, or any state or local official with regulatory control over the city or any of its employees.

(C) The results of post-accident testing when requested by the National Transportation Safety Board as part of an accident investigation.

(d) Court orders or subpoenas issued in legal proceedings including:

1. Lawsuits (e.g., wrongful discharge action);
2. Grievances (e.g., an arbitration concerning disciplinary action taken by the employer);
3. Administrative proceedings (e.g., an unemployment compensation hearing) brought on by, or on behalf of, an employee and resulting from a positive DOT drug test or alcohol test or a refusal to test (including, but not limited to, adulterated or substituted test results); and
4. Criminal or civil actions - to the decision maker in the proceeding (e.g., the court in the lawsuit).

(3) Employees are entitled, upon written request, to obtain copies of any records pertaining to their use of alcohol or controlled substances, including any records pertaining to his or her alcohol or controlled substance tests.

(H) *Responsibility.*

(1) *Employee.* All city employees that hold a valid CDL are responsible for abiding by this procedure as a condition of their employment.

(2) *Management officials and supervisors.* All supervisors and city officials are responsible for being alert to employee conduct that raises a reasonable suspicion that an employee is using or is under the influence of alcohol or controlled substances while on duty or otherwise performing city business. This policy is not intended nor should it be construed as a contract between the city and the employee. This policy may change at any time at the sole discretion of the city and/or to comply with changes in Federal DOT regulations.

(Ord. 932, passed 3-9-98; Am. Ord. 955, passed 10-12-98; Am. Ord. 1373, passed 9-13-10; Am. Ord. 1385, passed 12-13-10; Am. Ord. 1456, passed 4-8-13; Am. Ord. 2018-18, passed 7-9-18)

§ 36.26 FAMILY AND MEDICAL LEAVE.

(A) *Purpose and scope.* This policy has been established to comply with the Federal Family and Medical Leave Act of 1993 (FMLA) and related Department of Labor regulations. The policy prescribes the leave benefits available to eligible employees under these laws; it applies to all faculty and staff employees who meet the eligibility requirements defined in this policy.

(B) *Policy statement.*

(1) Family and medical leave is provided to eligible employees for any of the events or conditions listed below. Leave taken for these events must be reported as family and medical leave.

(a) The birth of a child and the care of the newborn.

(b) The placement of a child with an employee in connection with the adoption or state-approved foster care of the child.

(c) The serious health condition of a child, parent, or spouse of the employee.

(d) A serious health condition of the employee.

(2) An eligible employee is entitled to a maximum of 12 weeks of approved family and medical leave in a year, as defined in this section. (The employee may request a shorter leave.)

(C) *Definitions.*

CHILD. A biological, adopted, or foster child; a stepchild; a legal ward; or a person for whom the employee has (or had during the person's youth) daily responsibility to care and financially support and who is either under 18 years of age or is incapable of self-care because of physical or mental disability.

CHRONIC HEALTH CONDITION. One that meets all the following requirements:

- (a) Requires periodic visits for treatment by a health care provider,
- (b) Continues over an extended period of time, and
- (c) May cause episodic rather than continuing incapacity (e.g., asthma, diabetes, epilepsy).

CONTINUING TREATMENT. See **SERIOUS HEALTH CONDITION.**

ELIGIBLE EMPLOYEE. Any employee who has been employed by the city for at least 12 months, and who has worked for the city at least 1,250 hours during the last 12 months immediately preceding the leave. Full-time (100% FTE) exempt staff and faculty are presumed to have worked 1,250 hours.

ESSENTIAL FUNCTIONS. The reason a position exists; those duties and tasks that are fundamental to the position.

HEALTH CARE PROVIDER. A person authorized to practice as a health care provider in Indiana who is performing within the scope of that practice as one of the following:

- (a) Doctor of medicine;
- (b) Doctor of osteopathy;
- (c) Podiatrist;
- (d) Dentist;
- (e) Clinical psychologist;
- (f) Optometrist;
- (g) Chiropractor (for manipulation of spine to correct subluxation);
- (h) Nurse practitioner;
- (i) Nurse midwife;
- (j) Christian Science practitioner listed with the First Church of Christ, Scientist in Boston, Massachusetts;

(k) Clinical social worker;

(l) Any health care provider from whom the city's group plan will accept certification of a serious health condition;

(m) Any health care provider within the scope of practice listed above practicing in another state who is authorized to practice in that state.

INCAPACITY. For the purposes of FMLA, the inability to work, attend school, or perform other regular daily activities because of the serious health condition, treatment therefor, or recovery therefrom.

INTERMITTENT LEAVE or REDUCED LEAVE SCHEDULE. A leave schedule that reduces the usual number of hours per workweek or hours per workday of an employee. Intermittent leave is calculated on an hourly basis, as a proportion of the employee's normal workweek.

PARENT. A biological, foster, or adoptive parent; a stepparent; a legal guardian; or a person who has (or had during the employee's childhood) daily responsibility to care for and financially support the employee. Parents-in-law are not included in this definition.

REGIMEN OF CONTINUING TREATMENT. Includes a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition. ***REGIMEN OF TREATMENT*** does not include the taking of over-the-counter medications such as aspirin, antihistamines, or salves, or bed-rest, drinking fluids, exercise, or other similar activities that can be initiated without a visit to a health care provider.

SERIOUS HEALTH CONDITION.

(a) An illness, injury, impairment, or physical or mental condition that involves either or both of the following:

1. In-patient care in a hospital, hospice, or residential care facility.
2. Continuing treatment by a health care provider.

(b) For an employee to qualify for family and medical leave for a serious health condition, the employee or family member must be under continuing supervision of, but not necessarily receiving active treatment by, a health care provider, who must certify to one of the following:

1. In the case of leave requested to care for a family member, the employee is needed to care for the family member.

2. In the case of leave requested for the serious health condition of the employee, the employee is unable to perform the essential functions of the position.

(C) A serious health condition involving continuing treatment by a health care provider includes any of the following conditions:

1. A period of incapacity of more than three consecutive calendar days, involving treatment by a health care provider two or more times, or at least one time that results in a regimen of continuing treatment;

2. Any period of incapacity due to pregnancy or prenatal care;

3. Any period of incapacity due to a chronic serious health condition;

4. A period of incapacity that is permanent or long-term for which treatment may not be effective (e.g., Alzheimer's, severe stroke, terminal stages of a disease);

5. Any period of absence to receive multiple treatments either for restorative surgery after an accident or injury or for a condition that would likely result in an incapacity of three or more days in the absence of medical treatment (e.g., cancer, severe arthritis);

6. Allergies or mental illness resulting from stress, but only if they meet all of the other criteria of a serious health condition;

7. Substance abuse, but only if the employee is taking leave for treatment by a health care provider.

SPOUSE. A husband or wife, as recognized under the laws of the State of Indiana.

TREATMENT. For the purpose of FMLA, includes, but is not limited to, examinations to determine if a serious health condition exists. **TREATMENT** does not include routine physical, eye, or dental exams. Specific conditions for which treatment does not qualify for FMLA leave include: cold, flu, earaches, upset stomach, minor ulcers, headaches other than migraine, routine dental, or orthodontia problems and periodontal disease. Cosmetic treatments are not considered a serious health condition unless medically required or unless complications arise.

YEAR. Twelve months measured backward from the first date family and medical leave begins.

(D) *Provisions.*

(1) An eligible employee must use all applicable accrued paid leave balances (including sick, vacation, and personal leave) while taking family and medical leave, except that the eligible employee, at his or her option, may reserve one week of vacation leave, as defined in § 36.08(A) of this chapter, for future use. Any sick leave of more than three consecutive days or intermittent leave of any duration

for qualifying serious or chronic health conditions must be counted as family and medical leave. When there is any question about whether a condition qualifies as family and medical leave, the employing department should contact the Human Resources Department. An employee request for Family Medical Leave must be supported by the Certification of Health Care Provider. If it is determined that the leave qualifies as family and medical leave, the procedures for reporting family and medical leave must be initiated.

(2) If both spouses are employed by the City of Salem, they are entitled to a combined 12 weeks of leave during any 12-month period (rather than 12 weeks each) for the birth or placement of a child. A jointly filed request form is required from spouses who are both requesting leaves for the birth or placement of a child. Spouses who are eligible employees are entitled to 12 weeks for other qualifying events or conditions.

(3) Leave for birth or placement of a child must take place within 12 months after the event. Leave may begin prior to the birth or adoption. Leave for birth or placement of a child is available equally to both sexes.

(4) An intermittent or reduced leave schedule is available under the Family and Medical Leave Act for the serious health condition of the employee, employee's spouse, child, or parent. Pursuant to the provisions of 5 CFR 630.1204, intermittent medical leave will be subject to appropriate notice and certification standards. An intermittent or reduced leave schedule will not be available for the birth of a child or the placement of a child through adoption or foster care.

(5) For the period of the family and medical leave that is without pay, the employee may continue insurance benefits (excluding disability insurance plans) and will receive the premium sharing from the city toward the cost of health insurance. The employee is responsible for self-paying by personal check or money order that part of his/her insurance cost that would otherwise be deducted from the employee's paycheck.

(6) For the period of the family and medical leave that is without pay, the employee on family and medical leave will continue to accrue longevity, vacation leave and sick leave.

(7) Except under the conditions outlined in division (9) below, employees returning from approved family and medical leave must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms if they are able to perform the essential functions of that position.

(a) An employee offered an equivalent position that chooses to decline the position waives any rights to reinstatement.

(b) An employee who believes that a position offered is not an equivalent position is entitled to file a grievance with the Board of Public Works and Safety.

(8) The city may decline to restore an employee on family and medical leave to his/her original or equivalent position under the conditions listed below and in such cases, the employee maintains only those rights provided by such regulations as COBRA and in the case of a reduction in force.

(a) If an employee's position is scheduled for elimination as part of an approved reduction in force (RIF) plan, the employee's family and medical leave rights (including rights to restoration of employment) end on the scheduled termination date.

(b) If misconduct by the employee which constitutes grounds for termination occurs or is discovered, the employee is subject to termination, even if the employee is on family and medical leave at the time of the misconduct or discovery of misconduct.

(c) If an employee is scheduled for termination for any other reason prior to notification of family and medical leave and has received written notice of the termination, the employee's family and medical leave rights end on the previously scheduled termination date.

(d) If the employee is among the highest paid 10% employed by the city and a determination is made by the Mayor that restoring employment to the employee would result in substantial economic injury to the city, the employee's right to restoration of employment may end at the close of the family and medical leave period. At the time an employee in this category applies for family and medical leave, the employee must be notified that he/she may be ineligible for reinstatement.

(9) If an employee elects not to return to work upon completion of an approved unpaid family and medical leave, the employee is obligated to reimburse the city for the amount of the city's contribution of insurance premium during any complete months of unpaid leave. The employee need not reimburse the city if the failure to return to work was for reasons beyond the employee's control, or if the employee retires directly from leave or within 30 days of returning from leave.

(E) *Review.* The city expressly reserves the right at anytime to modify, alter, or amend this policy in whole or in part. The city shall have the unlimited right to amend this policy at any time, retroactively or otherwise, in such respect and to such extent as may be necessary to meet any legal requirement and to the extent necessary to accomplish this purpose. The Mayor or his or her designee is hereby granted authority to issue interpretations and clarify rules under this policy and to coordinate it with or modify other rules of the city as required from time to time for compliance with the law.
(Ord. 1178, passed 3-8-05; Am. Ord. 1258, passed 6-12-07)

§ 36.27 EMERGENCY CONDITIONS LEAVE.

(A) *Scope.* This policy applies to employees subject to the executive authority of the Mayor, except employees of the Salem Police Department, the Salem Fire Department, the Salem Water Department, and the Salem Street Department.

(B) *Definitions.*

CONDITIONS OF A SERIOUS NATURE. Circumstances which may prohibit employees from reporting to work but do not necessitate the closure of facilities or curtailing of operations.

EMERGENCY CONDITIONS. Circumstances which necessitate the closing of the city facility or the curtailing of operations.

(C) *Statement of policy.* The Mayor may authorize the closing of the city facility or the curtailing of operations due to emergency conditions. When the city facility is closed or operations are curtailed due to emergency conditions, employees whose worksite is affected by declaration of the emergency and who are not required to work shall be given leave with pay. Employees required to work during the emergency shall be granted compensatory time on an hour-for-hour basis for such hours worked. If conditions of a serious nature exist but are not sufficient to close facilities or curtail operations, the Clerk-Treasurer may authorize leave without pay for affected employees. Employees may elect to use vacation leave, personal leave or compensatory time to cover their absences. The provisions of this policy shall not apply to employees on sick leave or any other prior approved leave or to any other employees who are engaged in emergency response activities, such as, but not limited to, snow removal, radio operations or emergency management.

(D) *Procedures/responsibility.* Only the Mayor may authorize the closing of the city facility or the curtailing of operations due to emergency conditions. The Clerk-Treasurer may only authorize unpaid leave or an employee's request to use accrued leave.

(Ord. 1177, passed 2-8-05)

§ 36.28 TRAVEL AND CONFERENCE POLICY.

(A) *Request for permission to travel.* The appropriate request for permission to travel form (specified below) shall be completed by all persons traveling at the expense of the city. In relation to this procedure, the following shall apply:

(1) *Incidental travel.*

(a) A request for permission for incidental travel shall be completed by the employee for all travel outside Washington County that does not require overnight accommodations.

(b) The request for permission for incidental travel must be approved by the employee's department head and the Clerk-Treasurer for those employees under the control of the Clerk-Treasurer, or the Mayor for other city employees. Copies of the approved form shall be maintained by each department. If a request for expense reimbursement is filed after the travel has taken place, it is not necessary to attach the request for permission for incidental travel. However, the department head should ensure the travel was properly authorized.

(2) *Overnight travel.*

(a) A request for permission to travel overnight form shall be completed by the employee prior to traveling when overnight accommodation will be required.

(b) The request for permission to travel overnight form must be approved by the employee's department head and the Clerk-Treasurer for those employees under the control of the Clerk-Treasurer, or the Mayor for other city employees. Approvals must be obtained prior to traveling. A copy of the approved form shall be returned to the employee, a copy shall be forwarded to the department head, and a copy shall be maintained by the Clerk-Treasurer's office.

(B) *Transportation.*

(1) *Air travel.* Travel by scheduled air carrier when pre-approved by the Clerk-Treasurer for those employees under the control of the Clerk-Treasurer, or the Mayor for other city employees shall be reimbursed by the city for the actual cost of the ticket. Payment or reimbursement for air travel shall be at the standard coach class rate as a maximum. Reservations and ticketing for air travel shall be accomplished by the designated travel agency and billed directly to the city unless the tickets are obtained on an emergency basis. Air reservation shall be made as early as feasible to obtain the greatest discount. Extension of a trip to cover a Saturday or Sunday stay-over to obtain a lower air fare, if no city business is to be conducted, shall not be used.

(2) *Automobile rental.* Automobile rental costs shall be reimbursed at the standard compact car rate when the automobile is used for official city business and approved in advance by the Clerk-Treasurer. Fuel for rental automobiles shall also be an expense eligible for reimbursement. Employees shall not select additional insurance coverage offered by automobile rental agencies since city insurance will cover the risks in question. The designated travel agency shall arrange all automobile rentals unless rental must be arranged in an emergency situation.

(3) *Reimbursement for private vehicles.* Private vehicles may be used for personal or group transportation on extended trips. Mileage allowance shall be reimbursed at the current rate as established by the Indiana Department of Administration for all state officials and employees. Mileage reimbursement shall not exceed the cost of a refundable round trip air transportation (standard coach) for a reservation made at least seven days in advance of the trip. Proof of automobile insurance at the amounts specified by the city must be on file with the city.

(4) *Taxi and other public transportation.* Taxi, airport limousine, bus and mass transit fares shall be reimbursed when used for attendance at meetings or to accomplish official city business. Taxi fare for travel to dinner (or other purposes) will not be allowed, unless food service is not available within walking distance of the hotel at which the employee is staying, or unless it is approved in advance by the Clerk-Treasurer.

(C) *Meals.*

(1) *Guidelines.* Reimbursement guidelines for meals, including tips (not to exceed 20% of the bill), per person for business meetings shall be established by resolution from time to time by the Board of Public Works and Safety. The guidelines so established by the Board of Public Works and Safety may be exceeded if the charges are reasonable under the circumstances.

(2) *Receipt.* Reimbursement for meals shall only be approved with the presentation of a valid receipt or other documentation.

(3) *Conference meals.* Meals that are purchased as part of a conference program or are otherwise provided for an employee shall be documented. Employees may not request reimbursement for such meals.

(D) *Telephone calls.* Telephone calls are eligible for reimbursement when used to accomplish official business. If an employee uses a personal calling card when telephoning, the actual phone bill must be submitted when claiming reimbursement.

(E) (1) *Non-refundable items.* Certain items are not reimbursable with the use of city funds. These items include, but are not limited to the following:

- (a) Fees for entertainment;
- (b) Expenses associated with golf or other sporting or fitness activities;
- (c) Fees for in-room motion pictures;
- (d) Fees for concierge amenities;
- (e) Expenses for snacks and/or alcoholic beverages;
- (f) Expenses for laundry, barbering, valet services, personal phone calls, traffic violations or private auto repair;
- (g) Expenses incurred by family members or guests who accompany a city official or employee; or
- (h) Expenses incurred as part of an election campaign.

(2) An employee may stay with a relative or friend while attending an out-of-town meeting or conference; however, the city will not reimburse for any payment to the friend or relative for lodging, meals or transportation.

(F) *Reconciliation and reimbursement.*

(1) *Travel and meetings expense form.* Within ten business days after the city official or employee returns from trip or event, a travel and meetings Expense form must be filed with the Clerk-Treasurer's office. If billings for expenses incurred have not been received in ten days, the form with all expenses for which bills have been received to date shall be filed, noting that not all expenses are included, and a supplemental report shall be filed immediately upon receipt of bills beyond the ten-day period. Original receipts for lodging and transportation (airline ticket), shall be attached as well as necessary receipts to support additional expenditures to be reimbursed and/or to support expenditures for which an advanced payment was received.

(2) *Employee owed money.* If the employee is due money, a completed claim form should be attached to the travel and meetings expense form.

(3) *Clerk-Treasurer's office.* If the Clerk-Treasurer's office has any questions about the approved travel and meetings expense form or any other documentation, they shall contact the employee immediately by telephone or return the form with a note of explanation so that the employee can make the appropriate corrections or provide the additional information.

(4) *Final approval.* After the form has been reviewed by the Clerk-Treasurer's office, it shall be forwarded to the Mayor for final approval. The Mayor will return the form to the Clerk-Treasurer's office for payment.

(G) *Fraud.* Any employee who submits a request for permission to travel, or submits travel and meetings expense forms or supporting documentation for the purpose of defrauding the city, shall be subject to disciplinary action including written reprimand, suspension or dismissal.
(Ord. 1215, passed 2-14-06; Am. Ord. 1540, passed 12-14-15)

CHAPTER 37: POLICE DEPARTMENT

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GENERAL PROVISIONS**§ 37.001 DEFINITIONS.**

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

COMMANDING OFFICER. A Superior Officer having rank, (either temporary or permanent) higher than that of a Sergeant.

GENERAL ORDER. A permanent order issued by the Chief of Police generally relating to a general circumstance or situation.

LEAVE OF ABSENCE. An extended period during which an officer is excused from active duty and during which period he receives no pay.

OFF DUTY. That period in which an officer is free from specified routine duties.

OFFICER AND RANK. These terms apply to every member of the Police Department, regardless of rank, division or duty.

ON DUTY. That period when an officer is actively engaged in performance of his duties.

ORDER. Instruction given by Ranking Officer to a subordinate.

RANKING OFFICER. Officer having the highest rank of grade. Officers of the same grade shall rank according to the date of appointment to the grade, unless otherwise ordered by the Chief of Police. When two or more officers are appointed to the same rank on the same date, they will rank in order of such appointment to the Salem Police Department. When two or more officers are on duty together, the officer of the highest rank is in command and will be held responsible. For a special detail and for a specific period, an officer may be designated by the Commanding Officer to take command without regard for rank.

REPORT. Always a written communication unless otherwise specified. It may be a verbal report but must be confirmed by written communication before the officer reporting the same shall go off duty.

SICKLEAVE. That period during which an officer is excused from active duty by reason of illness or injury.

SPECIAL DUTY. Police service which by its nature requires an officer to be excused from the performance of his regular duties.

SUPERIOR OFFICER. A term applied to every officer having supervision, (either temporary or permanent) to every officer of lower rank.

THROUGH OFFICIAL CHANNELS. Through the hands of Commanding Officers.
(Ord. 1993-8, passed 7-23-93)

§ 37.002 PURPOSE.

The purpose of this chapter shall be to promote harmony, discipline and efficiency in the Salem Police Department. This chapter shall be a guide to every member of the Department in the acceptance of their responsibility as a public servant.

(Ord. 1993-8, passed 7-23-93)

§ 37.003 VIOLATION; DISCIPLINARY ACTIONS.

Any member of the Police Department violating any of the rules and regulations of the Department may be disciplined by the Board of Public Works and Safety or the Chief of Police in accordance with IC 36-8-3-1 through 36-8-3-4.1.

(Ord. 1993-8, passed 7-23-93)

§ 37.004 POLICE PENSION BENEFITS.

(A) If a member dies while in active service or after retirement from the Salem Police Department, then the surviving spouse of said policeman is entitled to receive an amount equal to 50% of the salary of a fully paid, first-class policeman in the unit at the time of payment of the pension.

(B) If a member dies while in active service or after retirement from the Salem Police Department, then a child or children under the age of 18 years shall each be entitled to receive an amount equal to the sum of 15% of the salary of a fully paid, first-class policeman for Salem at the time of the payment of the pension.

(Ord. 877, passed 2-10-97)

§ 37.005 COPY FEES.

The Police Department shall collect fees for providing copies of certain reports according to the following schedule.

(A) Motor vehicle accident report: \$5.00

(B) Police case report: \$3.00

(C) Contact card report: \$2.00

(Ord. 945, passed 8-10-98)

§ 37.006 SEIZED PROPERTY.

(A) All seized and recovered property taken into custody by the Police Department shall be tagged for identification and logged on an inventory master control sheet. An identification tag shall be attached to each item of seized or recovered property stating the following:

- (1) The name of the officer or citizen who collected the property;
- (2) The date of the collection of the property;
- (3) The case contact card or arrest report number; and
- (4) Brief description of property.

(B) All property seized or recovered by the Police Department shall be stored in a locked secure area under the control of either the Chief of Police, Assistant Chief of Police or Senior Captain of the Police Department.

(C) All property seized or recovered by the Police Department shall be inventoried no less than twice each calendar year. The inventory shall be conducted by a Police Officer designated by the Chief of Police. A printed copy of the current inventoried property shall be filed with the Office of the Police Chief upon its completion.

(D) All property seized or recovered by the Police Department shall be stored and disposed of pursuant to the provisions of IC 35-33-5-5 or any statutory amendment thereof or supplemental thereto.

In the case of firearms seized or recovered by the Police Department, such firearms shall be stored or disposed of pursuant to the provisions of IC 35-47-3.
(Ord. 958, passed 11-9-98)

RULES AND REGULATIONS

§ 37.015 GENERAL DUTIES AND RESPONSIBILITIES OF POLICE OFFICERS.

(A) Officers shall at all times preserve the peace, protect life and property, apprehend criminals, prevent crime, recover lost or stolen property, and enforce the ordinances of the city and the laws of the state and the laws of the United States in a courteous manner.

(B) Officers shall not distort the facts of any violation. Officers having information regarding any felony, or any person wanted on a felony charge, shall immediately communicate all details to his Superior Officer. This does not abridge the duty of an officer to make an arrest.

(C) Officers shall properly discharge the duties assigned them. In discharging his duties, an officer will be held fully responsible for any and all of his actions unless his actions are as a result of a direct order from another officer of a higher rank.

(D) Officers must be regarded as credible. Officers are required to speak the truth at all times. Habitual lying shall be grounds for disciplinary action.

(E) Officers shall not be absent from duty without permission. Officers shall be punctual. Officers shall arrive at headquarters at such time as to enable them to be prepared to go on duty at the time set. Officers shall, before their regular on duty time, familiarize themselves with the contents of the daily police log, case report file, outstanding warrants, stolen property file and foreign circulars.

(F) Officers must make reports promptly and in the manner prescribed. Officers who receive assistance from any other officer on any case to which they are assigned, shall make note of such assistance in their reports on the case. No erasures are to be made in any of the books, records or documents connected with the Department. If any error is discovered in the books or records, it is to be altered and corrected by drawing the pen neatly across the entry and substituting the correction above it.

(G) Any officers receiving property or evidence will submit the articles to the Commanding Officer, either in person or through the depository located in the police station, within a maximum 24-hour period. This property or evidence may be checked out any time after it has been recorded in the property compartment. Articles submitted after 24 hours or left unattended will not be accepted by the property room. If for any reason the property or evidence cannot be submitted within a 24-hour period, it is the officers responsibility to clear this through the Chief or Assistant Chief. No evidence or property will be accepted without a case report on file.

(H) Officers are held to be always on duty, although periodically relieved from the routine performance of it. They are always subject to orders from their Superior Officers and to calls from civilians, and the fact that they may be technically “off duty” shall not be held as relieving them from the responsibility of taking proper police action in any matter coming to their attention. Officers may be in possession of a firearm at all times, if they are trained with that weapon and familiarized with it.

(I) Officers shall be civil, orderly and courteous in their Department. They shall give the greatest possible attention and courtesy to all requests. Officers off duty but in uniform shall conduct themselves as though they were on duty. Officers shall act with dignity. They shall not show a lazy disposition. Officers are prohibited from influencing or attempting to influence by threats or otherwise, the lawful business of any person. They shall maintain an even, cheerful temper, regardless of the provocation, remaining cool and collected at all times. They shall give their name and badge number when requested in a respectful manner.

(J) Officers shall have respect for and comply with the laws while on or off duty. They shall study carefully and thoroughly understand their rules and regulations, city ordinances and state and federal laws.

(K) Officers shall not drink any alcoholic or intoxicating liquor of any kind while on duty. Nor shall they report to duty with the odor of liquor on their breath. Officers shall not buy liquor while in uniform.

(L) Officers shall pay all just debts contracted and meet all other obligations undertaken while members of this Department.

(M) Officers shall report to a Superior Officer upon request any violation of a rule or order, or any conduct of another officer which is of nature to cause embarrassment to the Department.

(N) (1) Officers shall at no time disobey the orders of any Superior Officers. Superior Officers shall at no time give orders without adhering to the organizational chart of their respective job definitions.

(2) Should an order conflict with any previous order issued by another of their Superior Officers or with any general or specific order of any provision of their manual, the officer to whom such order is issued shall respectfully call attention to such conflict. If the Superior Officer giving such order does not make changes which will remove such conflict, the order shall stand and the responsibility shall be the Superior Officer's. The officer obeying same shall not be held responsible for disobedience of orders. It is sufficient for him to know that the person giving the order is in proper command. Should any order appear unjust or improper to the officer to whom it is directed, he shall perform same first, and afterward he may call it to the attention of the Chief of Police through official channels.

(3) Officers sent on a call shall immediately upon the completion of the task, notify the Superior Officer by whom sent, of the nature of the same and the action taken. If the investigation requires an unusually long period, he shall notify headquarters by radio or phone of his location and the circumstances and the telephone number by which he may be reached.

(4) When a Watch Commander begins his tour of duty, he is in command of all law enforcement personnel in the Police Department and all officers carrying out police duties, with direct responsibility to the Chief and Assistant Chief of Police.

(O) Officers who are incompetent, inefficient, cowardly or unable to perform required duties will be subject to disciplinary action.

(P) Officers shall report any change in address as soon as possible after such change shall occur, giving a telephone number. In case an officer shall remove his residence beyond a 30 mile radius from the corporate city limits of the city, his office shall be declared vacant unless his actions have been approved by the Board of Public Works and Safety and according to the laws of the state, in such cases.

(Q) Ranking officers shall always take charge at fires, riots, serious crimes and other situations requiring immediate attention, in the absence of a Superior Officer.

(R) The entire Police Department of the city constitutes one body, and any of its members may be assigned to any duty at any time by the Chief of Police.

(S) Each officer will be furnished with a police manual, containing the rules and regulations, with which they must make themselves familiar, in order that their duties may be fully understood. This manual is the property of the Board of Public Works and Safety and must be returned as other public property.

(T) Upon the resignation, dismissal, retirement or death of any member of the Department, he will surrender his book of rules and regulations, his badge, gun, club, uniforms, and all other insignia of office or property of the Police Department in his possession to the Chief of Police.

(U) At no time shall an officer of the Salem Police Department pursue a vehicle in such a way as to endanger the safety of the general public. During a pursuit, the pursuing vehicle, when approaching a traffic control signal or sign (that is, stop sign, stop light or yield sign), shall make sure the area is clear and use all precautions to protect the safety of the general public.

(V) When running Code 2 or Code 3 runs, any time a police vehicle reaches a control device or sign (that is, stop sign, stop light or yield sign), it shall be able to come to a stop if the device indicates and then proceed with caution when the intersection is clear.

(Ord. 1993-8, passed 7-23-93; Am. Ord. 2021-27, passed 12-13-21)

§ 37.016 GENERAL CONDUCT OF POLICE OFFICERS.

(A) Officers are forbidden to use or threaten to use any political power to effect a change in their line of duty.

(B) Officers are forbidden to use vulgarity around the Department. They are to have general good conduct while in the Department and on the street.

(C) Officers shall not solicit rewards, presents, gratuities or compensation for the performance or omission of their duty.

(D) Officers shall not receive from prisoners nor from persons recently arrested, either directly or indirectly, any article whatsoever, whether as a gift or as a result of purchase or trade.

(E) Officers shall not, without approval of the commanding officer, take action on any outside case reported by phone, wire or letter except when same is from a Police Department or some other authorized public agency. Officers shall not send any communication relative to police matters except over the signature of the Chief of Police.

(F) Officers shall not obtain search warrants or arrest warrants except with the knowledge of a Commanding Officer.

(G) Officers shall not, except with the permission of their Commanding Officer, make arrests in their own quarrels, nor those of their families, except under grave circumstances. Officers not in uniform shall not arrest traffic violators in sight except when the violation is especially flagrant or involves an accident or driving while under the influence of liquor or narcotics.

(H) Officers shall not publicly criticize the action of any member of the Department. Officers having a grievance against any other officer shall take up the matter through official channels.

(I) Officers shall submit to a breathalyzer test upon request of the Chief of Police. Refusal shall be grounds for disciplinary action.

(J) Indiana Code 36-8-3-12 indicates a police officer must not solicit votes and campaign funds, or challenge voters for the office for which they are candidates while in uniform or on duty.

(K) Personnel of the Salem Police Department should recognize that this is their primary job. They should consider this in decisions relating to other jobs or events.

(L) Personnel of the Salem Police Department will not take jobs involving the distribution of alcohol unless it is cleared by the Chief of Police.

(M) Personnel will not be part of any illegal activities, nor shall they work in a location where there is an indication that it is going on.

(N) Personnel should avoid belittling others to show authority, to be noticed, or whatever the reason might be. Doing this is not the sign of a good leader or police officer. You should work to avoid giving this impression.

(O) Use of Department vehicles outside the county for anything other than official business or job related activities, must be first cleared by the Chief or Assistant Chief of Police.
(Ord. 1993-8, passed 7-23-93)

§ 37.017 PHYSICAL AND MENTAL CONDITION.

(A) All police officers shall be physically and mentally fit.

(B) All officers shall submit to a physical examination as ordered by the Chief of Police.

(C) Any officer shall submit to psychiatric examination upon request from the Chief of Police.

(D) All officers who reach 20 years of service must have an annual physical examination, if requested by the Chief of Police.

(E) If while on duty, an officer becomes sick or gets injured and unable to perform their duties, they shall report same to their Superior Officer immediately. Officers shall report any injury to their person, whether injury resulted on or off duty. When injury prevents such report, it shall be made by the officer's immediate superior. Officers on return from sick leave shall make a sick report stating the period of absence from duty, the nature of the illness and the name of the attending physician, if requested by the Chief of Police.

(F) All police officers should maintain their weight within standards set by the American Medical Association for their respective height and body build.

(G) When hired, all officers shall have 20/20 corrective vision.
(Ord. 1993-8, passed 7-23-93)

§ 37.018 USE OF FORCE AND FIREARMS.

(A) Officers are justified in using reasonable force if the officer reasonably justifies that the force is necessary to affect a lawful arrest. However, an officer is justified in using deadly force only if the officer:

(1) Has probable cause to believe that the deadly force is necessary:

(a) To prevent the commission of a forcible felony; or

(b) To affect an arrest of a person who the officer has probable cause to believe poses a threat of serious bodily injury to the officer or a third person; and

(2) Has given a warning, if feasible, to the person against whom the deadly force is to be used.

An officer who has an arrested person in custody is justified in using the same force to prevent the escape of the arrested person from custody that the officer would be justified in using if the officer was arresting that person. However, an officer is justified in using deadly force only if the officer:

(1) Has probable cause to believe that deadly force is necessary to prevent the escape from custody of a person who the officer has probable cause to believe poses a threat of serious bodily injury to the officer or a third person; and

- (2) Has given a warning, feasibly, to the person against whom the deadly force is to be used.

Justification for the use of reasonable force is construed as that force which is required to stop, and then cause an individual to be brought under control of an officer or officers. This force may vary within the range of officers presence to physical control technics. The controlled use of force is part of ongoing training mandated within the Police Department. The levels of control and the levels of resistance are derived from standards set forth in the Indiana Law Enforcement Academy Pressure Point Control Tactics Curriculum.

(B) *Availability.* Officers will not place weapons, or objects adaptable for use as weapons and capable of inflicting serious bodily injury, in a position accessible to a prisoner. Such implements or weapons will not be placed or remain unattended in any location in the police building normally accessible to a prisoner or suspect.

(C) *Discharging of firearms.*

(1) Officers will not discharge firearms in connection with police duty except under the following circumstances.

- (a) At approved range.
- (b) Killing animals seriously wounded or dangerous when other disposition is impractical.
- (C) When authorized by a superior.
- (d) In the defense of their own lives.
- (e) In the defense of the life of another.

(2) In all cases when a firearm is discharged in the line of duty, whether or not anyone is injured or apprehended, the officer will file a case report of the incident.

(3) When an officer draws his firearm, it must be in connection with his police duties and under the circumstances listed in divisions (C)(1)(a) through (e) listed above. As a general rule, the Department recognizes that no warning shot be fired. However, if an officer does fire a warning shot or discharges a firearm, that officer shall be brought before the Chief of Police to determine if that warning shot or discharging of the firearm was justified.

(D) *Moving vehicles.*

(1) No shots will be fired from a moving vehicle or at a fleeing vehicle unless the situation becomes one of self-defense. Exceptions to this rule are permissible only under the most extreme circumstances.

(2) Justification will be based upon whether or not the risk to innocent persons or other police officers is greater in firing the shots than permitting the person to escape.

(E) *Defensive/control equipment.* All Police Officers are provided with equipment which is approved as defensive/control intermediate weapons. This equipment is classified into two groups. The first group is chemical agents, and the second group is impact and joint lock equipment. No other equipment shall be used by any member of the Police Department unless prior approval is given by the Defensive Tactics Instructor or the Police Chief.

(1) *Chemical agents.* The Police Department currently uses Oleo Resin Capsicum Solution (O.C. Pepper Spray) aerosol devices. O.C. Pepper Spray shall be considered a resist or control option, and its use shall fall between the categories of “soft empty hand control” which presents a minimal probability of injury to a detainee and “hard empty hand control” which represents a high probability of injury occurring to a detainee. O.C. Pepper Spray agents may also be used as control technic on higher levels of resistance if the officer deems it as a necessary force. All officers shall receive training and demonstrate satisfactory proficiency in the use of this equipment prior to its issuance.

(2) *Impact and joint lock equipment.* The Police Department currently issues impact weapons. Impact weapons may be straight and side-handled batons, flashlights and other related impact/joint lock equipment manufactured for use in law enforcement. This equipment may be implemented in the “intermediate weapon level of control” as taught in the Defensive Tactics Training Program of the Police Department when there is a high probability of injury to the officer occurring. Intermediate weapons may be used as control technic on higher levels of resistance if the officer deems it a necessary force. The officer shall receive training and demonstrate satisfactory proficiency in the use of this equipment prior to its issuance.

(3) *Conducted energy devices.*

(a) *Policy.*

1. Conducted energy devices (CEDs) are intermediate weapons and not substitutes for lethal force. However, officers who use force against any person must be able to state in detail the specific reasons for using force. Within the confines of the general orders, CEDs are authorized for use against suspects who are actively resisting or exhibiting active aggression, or to prevent individuals from harming themselves or others.

2. In every situation in which a CED is discharged (cartridge firing or drive stun), even if the suspect was not struck, officers shall notify the Command Center and write a detailed incident report; and the on-scene supervisor shall make a supplement.

3. This general order applies to classified officers only.

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

ACCIDENTAL DISCHARGE. Any time a CED cartridge fires due to mechanical failure of the device or by means other than the deliberate pull of the trigger.

ACTIVE AGGRESSION. A threat or overt act of an assault (through physical or verbal means) coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is imminent.

ACTIVELY RESISTING. Physically evasive movements to defeat an officer's attempt at control, including bracing and tensing in an aggressive manner, pushing, or verbally signaling a clear and deliberate attempt to avoid or prevent being taken into or retained in custody. This also includes the suspect persisting with aforementioned activities after being given the opportunity to comply with an officer's commands.

CED. Conducted energy device is the technically correct name for the device commonly referred to by the trademark name TASER(R). This device propels wires to conduct energy sufficient to cause uncontrolled muscle contractions and override an individual's voluntary motor responses.

CED CYCLE. Duration of a CED electrical discharge following CED activation.

DARTED. When a suspect is struck by the probes (darts) fired from the CED.

DISCHARGE. Intentional firing of a CED. This term also includes using a CED in a drive stun manner.

DPM. A CED's digital power magazine.

DRIVE STUN. When a CED with no cartridge or a spent cartridge is placed in direct contact with the body of an individual or an animal and discharged. This is generally the secondary setting option for the CED.

EXCITED DELIRIUM. A state of extreme mental and physiological excitement, characterized by extreme agitation, hyperthermia, hostility, exceptional strength, or endurance without fatigue.

EXIGENT CIRCUMSTANCES. Circumstances that would cause a reasonable person to believe a prompt action is necessary to prevent physical harm from occurring to anyone.

LASER POINTING (RED DOTTING). Unholstering and pointing a CED at a person and activating the laser-aiming device.

PASSIVE RESISTANCE. Physical actions or a lack thereof that do not prevent the officer's attempt to control. It is a tactic of civil disobedience and labor disputes (e.g., a person who remains in a limp, stiff, or prone position, refuses to comply with simple directions, participates in a sit-in, locks arms in a chain, or blocks an entry way).

SECONDARY INJURY. Physical trauma indirectly associated with CED use (e.g., injuries from falls).

SENSITIVE AREAS. A person's head, neck, or groin area, or a male or female breast.

STUN. Using a CED to jam and override the central nervous system or cause uncontrollable contractions of muscle tissue. This is the only proper term to be used when a suspect is darted or drive stunned.

(C) *Certification and training.*

1. Before carrying or using a CED, an officer must be currently certified by the Training Division. Supervisors shall ensure their subordinates who carry a CED have attended initial and recertification training, and are maintaining current certification.

2. Officers shall use only CEDs and CED-related equipment (cartridges and holsters) approved by the Training Division. No changes, alterations, or modifications are permitted to the device or the related equipment without specific approval of the Training Division.

3. Assigned CEDs shall be available for inspection and officers shall qualify with them during their birthday month.

4. *Personal CEDs.* Officers may purchase only models and related equipment approved by the Training Division. Personal CEDs and cartridges must be registered with the department and are subject to all the same restrictions and guidelines as if they were furnished by the department.

5. The term CED also includes personally owned CEDs.

(d) *Use of CEDs.*

1. Officers must realize CEDs shall not eliminate all physical confrontations posed by suspects.

2. Officers should give a warning to a suspect prior to activating the CED unless to do so would place any other person at risk.

3. Officers shall not justify the use of a CED by intentionally placing themselves in imminent danger.

4. Officers shall not display a CED in an unprofessional or unsafe manner.

5. Unless exigent circumstances exist, officers should not use a CED on a person:

- (i) Sprayed with any chemical by any person outside the department.
- (ii) Simply to protect property against destruction or damage.
- (iii) Only passively resisting.
- (iv) Handcuffed.
- (v) Known to be mentally ill.
- (vi) Pregnant, elderly, or visibly frail, or on young children.
- (vii) Fleeing, as sole justification for use of the CED.
- (viii) Who is in a location where a fall may cause substantial injury or death.
- (ix) Who is only verbally noncompliant.

6. Officers shall keep CED cycling to a minimum, especially against persons in an excited delirium, and use only the force necessary to apply traditional restraint devices and affect an arrest. Officers shall constantly reassess the circumstances after each CED cycle.

7. Officers shall also refrain from knowingly discharging a CED around gas fumes, meth labs, aerosol chemical agents, or other flammable or combustible environments. Officers shall not discharge a CED at a person suspected of possessing or wearing an improvised explosive device (IED).

8. Unless exigent circumstances exist, officers should not use a CED on animals.

9. CEDs shall not be discharged from a moving vehicle or at a moving vehicle or its occupants. Mounted patrol officers shall not discharge a CED from horseback.

10. Red dotting can be an effective psychological tool. However, officers shall refrain from abusing the use of the CED's laser pointer and should refrain from intentionally red dotting sensitive areas. Officers should not red dot a person or animal unless the situation warrants the use of a CED.

11. Unless exigent circumstances exist, no more than one officer should activate a CED against a suspect at a time.

(e) *CED discharge inside the city limits.*

1. *Discharge.* Whenever a CED is discharged, the procedure set out in § 37.057 which pertains to the discharge of a firearm shall be followed.

2. Anytime officers discharge a CED at or strike an individual or animal, they shall also notify the Command Center and write a detailed incident report; and the on-scene supervisor shall make a supplement.

3. *Accidental discharge.* Whenever officers accidentally discharge a CED, the procedure set out in § 37.057 which pertains to the discharge of a firearm shall be followed.

4. The supervisor assigned to the CED incident shall conduct an inquiry. If the supervisor determines the incident was an accidental discharge and there is no injury or damage to property, the supervisor shall forward a letter to the officer's division commander outlining the circumstances of the discharge and the need for a replacement air cartridge.

5. Anytime officers accidentally discharge a CED and strike an individual or animal, they shall notify the Command Center and write a detailed incident report; and the on-scene supervisor shall make a supplement.

6. If only property is damaged, officers shall notify the dispatcher and their supervisor.

7. *Serious bodily injury or death to a person.* If an officer discharges a CED and a serious bodily injury or death occurs, the procedure set out in § 37.057 which pertains to the discharge of a firearm shall be followed.

8. *Officer's responsibilities.* Whenever an officer discharges a CED, that officer is responsible for generating the original incident report as required either by § 37.057(B) or (C).

9. *Dispatcher's responsibilities.* When notified of a CED discharge, the dispatcher shall send the officer's supervisor to the scene. If that supervisor is not available (e.g., off duty or on another call), the dispatcher shall send the Assistant Police Chief to the scene.

10. The nightshift commander, if that is not the supervisor, shall be contacted for all incidents occurring during the hours of 7:00 p.m. through 7:00 a.m.

11. *Supervisor's responsibilities.* The supervisor dispatched to a CED incident shall file a report as required by § 37.057(C).

12. The supervisor responding to the scene shall first check to see if anyone is injured. The Washington County Emergency Medical Services contractor shall be contacted if the suspect has been darted in a sensitive area or has sustained secondary injuries, or if otherwise needed.

13. The supervisor's supplement report shall include all of the following:

- (i) The date and time of the discharge and time of arrival of the supervisor.

(ii) The reasons why the officer discharged a CED.

(iii) Whether the discharge involved cartridge firing, drive stun, or both.

(iv) The identity of all officers at the scene at the time of the discharge and a summary of on-scene oral statements from the officers involved. (On-scene oral statements do not require a 48-hour notice.)

(v) A description of any injury sustained by anyone or by an animal.

(vi) Evidence information from any CED discharged at the scene (e.g., make, model, and serial or ID numbers from the CED unit and air cartridge).

(vii) All downloaded information from the discharged CED.

14. Supervisors shall also:

(i) Notify the owner of an animal that has been darted or stunned.

(ii) Ensure any required incident report is written by the officer involved and the report contains sufficient details justifying the CED deployment.

(iii) Issue new air cartridges.

(iv) Forward copies of all reports to the Police Chief.

15. If the supervisor's on-scene inquiry reveals violations of department policy regarding the use of force, the supervisor shall contact the Police Chief for direction. However, during the hours of 7:00 p.m. through 7:00 a.m., the supervisor shall contact the nightshift commander instead of the Police Chief.

16. When questions arise concerning the handling of CED incidents, officers shall first contact the nightshift commander during the hours of 7:00 p.m. through 7:00 a.m. During other times, or if the nightshift commander is unable to resolve the issue, the CED Training Officer shall be contacted for further direction.

(f) *CED Discharge outside the city limits.*

1. *Serious bodily injury to a person.* If officers are outside the city limits of Salem and discharge their CED and serious bodily injury or death of a person occurs, officers shall first contact the shift commander of the Washington County Sheriffs Department. In addition, the procedures set out in § 37.057 which pertain to discharge of firearms shall be followed. The procedures in subsection 37.018(E)(3)(e) shall otherwise be followed in notification, supervising, and reporting on the incident.

2. *No serious bodily injury to a person.* If an officer is outside the city limits of Salem and discharges a CED and there is no serious bodily injury to any person, the below listed procedures shall be followed:

(i) The officer involved in the discharge shall, as soon as possible, verbally notify the shift commander of the Washington County Sheriffs Department and SPD's Command Center.

(ii) The officer shall fully comply with the investigation conducted by the responsible agency.

(iii) The officer shall obtain a copy of any report generated from the investigation and forward the copy through the chain of command to the officer's assistant chief with a cover letter explaining the discharge incident.

(iv) If no report is generated, officers shall generate a letter explaining the discharge incident and send it through their chain of command to their assistant chief.

(g) *CED evidence.*

1. The unique air cartridge number that correlates with the anti-felon identification (AFID) tags shall be documented in all CED incident reports.

2. CED probes and AFID tags shall be collected and preserved for evidence only under incidents in which:

(i) The suspect has been darted in a sensitive area or sustained a serious bodily injury.

(ii) The suspect has sustained a secondary injury needing medical treatment.

(iii) An officer has sustained an injury needing medical treatment and the injury is related to the CED incident.

(iv) Officers believe preserving the CED evidence shall be needed in a future investigation or hearing.

3. If CED probes are not collected for evidence, they shall not be left at the scene or simply thrown away. Officers shall consider the probes as "used needles" or "sharps" waste and they shall be disposed of in proper "sharps" disposal receptacles located at any jail facility or any other proper disposal receptacles (e.g., at hospitals and in ambulances) with permission.

(h) *Carrying a CED.*

1. Officers trained in the use of and issued a CED shall wear it at all times while wearing the official uniform, even while working extra employment, except as authorized by general order or as directed by a supervisor. The CED shall be worn in a cross-draw manner as approved by the department.

2. Officers may also carry an approved cartridge pouch for carrying a spare CED cartridge (in lieu of attaching the cartridge to the handle of the CED). However, the department does not furnish this pouch and it must be purchased by the officer.

3. Officers in plainclothes, whether on or off duty, are not required to carry a CED. However, officers who have been issued or have purchased one should carry them when there is an expectation of making an arrest or when participating in an arrest situation. All plainclothes or off-duty officers who carry a CED shall abide by the same use policies as uniformed officers.

4. A CED carried by an on-duty plainclothes officer shall be carried in an approved holster attached to the officer's belt in a cross-draw manner. A CED may also be carried in a purse or a pack, but the device should be housed in a protective holster or case.

(i) *CED spark test.*

1. Officers shall conduct a one-second spark test at the beginning of their shift in order to keep the internal CED capacitor charged and to avoid a delayed spark or software corruption. If there is a delayed response during the test, officers shall conduct an additional five-second spark test.

2. Roll call supervisors shall document witnessing spark tests on the roll call sheet and ensure all officers on the sheet conducted a spark test. All other officers carrying a CED on duty, whether in uniform or plainclothes, shall conduct a one-second spark test in front of a supervisor and shall document the test separately. This documentation should be kept for a minimum of 90 days.

3. Uniformed officers working extra employment shall conduct a one-second spark test at the beginning of their extra employment. The test shall be conducted out of public view and shall be documented separately. This documentation should be kept for a minimum of 90 days.

4. Officers may test their CEDs more frequently if there is an operational reliability concern (e.g., the unit gets wet or dropped). When the CED is tested for reliability concerns, a supervisor must be present and the circumstances regarding the test must be documented separately, preferably on the roll call sheet.

5. All officers who are not mandated by general orders to carry their issued CED on a daily basis or at extra employment shall conduct a spark test at least once a week. The test shall be documented separately and this documentation should be kept for a minimum of 90 days.

(j) *Damaged, malfunctioning, or wet CEDs.*

1. When it is believed a replacement of a CED is needed, officers shall follow the procedures outlined in § 37.018(E)(3)(n) below.

2. *Damaged or malfunctioning CEDs.* Officers shall not carry any CED that shows obvious signs of damage (beyond normal wear) or is malfunctioning.

3. (i) If a CED is dropped or officers think there may be a problem with their CED, they shall conduct a thorough inspection of the unit looking for any possible signs of damage (e.g., broken central information display, or a cracked laser or flashlight lens) before it is used.

(ii) Warning: officers are advised even after a CED has been checked and no apparent damage is found, the CED may accidentally discharge when the safety switch is placed in the up (armed) position.

4. (i) *Wet CEDs.*

(ii) Warning: a CED exposed to extreme moisture may discharge with the safety switch still in the down (safe) position due to short-circuiting of the electronic components.

5. (i) *Static electricity.*

(ii) Warning: a CED exposed to extreme amounts of static electricity may discharge with the safety switch still in the down (safe) position due to short-circuiting of the electronic components.

6. *CED inspection procedures.* When a CED malfunctions, is suspected of being damaged, or becomes wet or exposed to extreme moisture, officers shall not move the safety switch to the up (armed) position until after conducting the following procedures:

(i) Immediately remove the air cartridge and do not replace it until the device functions normally in division (viii) below.

(ii) Remove the CED's DPM.

(iii) Thoroughly inspect the CED for damage or moisture.

(iv) If exposed to moisture or rain, wipe the CED thoroughly with a dry cloth.

1. If there is any visible moisture inside the DPM well, officers shall follow the procedures outlined in division (n) below.

2. If no moisture is found in the DPM well, officers shall ensure all components are completely dry for at least 24 hours before reinserting the DPM.

(v) If no damage is detected and the CED is thoroughly dried (after the 24-hour waiting period), insert the DPM and then place the safety switch in the up (armed) position. If the weapon discharges without pulling the trigger, place the safety in the down (safe) position and remove the DPM. The CED is unsafe and is not to be used in any manner. Officers shall then follow the steps in § 37.018(E)(3)(n).

(vi) If the weapon does not accidentally discharge, officers shall conduct a full five-second spark test in front of a supervisor. A rapid pulse rate should occur and the discharge should stop after five seconds. Officers shall conduct the wet and damaged test in front of a supervisor. The supervisor shall document the test on the roll call sheet.

(vii) If the CED does not operate normally, place the safety switch in the down (safe) position, remove the DPM, and follow the steps in division (n).

(viii) If the CED functions normally, place the safety switch in the down (safe) position, and replace the air cartridge. The device can now be carried.

(k) *DART removal.*

1. Any trained officer may remove CED darts from suspects if there is no indication for medical personnel to be called to the scene.

2. In addition to those situations in which an ambulance would normally be called to a CED scene, medical personnel shall be immediately summoned to the scene if any of the following are true:

- (i) A person is darted in a sensitive area.
- (ii) A dart is too deeply embedded for easy removal.
- (iii) There are complications.
- (iv) The person exhibits an adverse reaction.

3. Under unusual circumstances and if there are no signs of acute injury or illness, suspects may be transported to a jail facility with CED darts still embedded (e.g., there is a need to immediately remove the suspect from the scene as a matter of scene or suspect control or there is an anticipated delay in the arrival of medical personnel). There, jail medical staff can remove the darts.

(l) *Jail booking.*

1. Before booking a prisoner who has been darted, officers shall notify an on-duty jail supervisor. Such prisoners shall not be booked into any jail facility unless approved by that supervisor.

2. Jail supervisors shall notify Jail Division medical personnel of all dartsed suspects for monitoring or medical evaluation.

(m) *Replacement cartridges and holsters.*

1. Whenever an officer needs to replace an air cartridge or holster, the officer's supervisor shall generate correspondence to the officer's commander detailing the reason for the replacement or exchange (see attached sample form letter).

2. If an officer's division does not carry an inventory of air cartridges or holsters and there is a need for an immediate replacement and there are no extenuating circumstances, any on-scene supervisor can generate a replacement letter to the officer's commander. The officer shall take a copy of the letter to the nearest location that maintains an inventory and obtain a replacement. The division replacing the equipment shall make a copy of the letter for their records and send a copy via interoffice mail to the officer's commander.

(n) *CED or DPM replacement.*

1. *Replacement.* When any CED or DPM needs replacing for any reason, the following steps shall be followed:

(i) Officers shall immediately notify their supervisor of the reason a CED or DPM needs replacement.

(ii) If the supervisor determines a replacement is warranted, officers shall write a letter to their commander via the chain describing the reason for the needed replacement.

(iii) The supervisor shall download the history of the CED if possible. If the CED is damaged and the history cannot be downloaded or the CED is lost or stolen (see the following division 2. "lost, stolen, or damaged CEDs"), the supervisor shall note this in the letter to the commander.

(iv) The supervisor shall draft a letter through the chain to the officer's commander detailing the downloaded history and a detailed reason for the replacement. If the CED is malfunctioning and not damaged, the supervisor shall include in the body of the letter that the reason the CED may be malfunctioning could be due to a defective DPM.

(v) Upon approval from the division commander, the officer shall report to the Training Division to obtain a CED or DPM replacement.

(vi) Officers must bring copies of all the letters to the commander, the CED, and the DPM to the Training Division before that office shall authorize replacement.

2. *Lost, stolen, or damaged CEDs.* When theft, negligence, loss, or abuse of a CED or any CED equipment occurs, the officer to whom the CED is assigned shall file a written report with the Police Chief. In order for officers to obtain another CED or DPM they shall follow the above procedures in § 37.018(E)(3)(n)1., plus bring copies of the following:

- (i) The incident report.
- (ii) A restitution receipt from the Office of City Clerk-Treasurer.

3. *Normal workday CED replacement.* During a normal workday, officers may replace CEDs and DPMs at the Training Division's outdoor qualification range.

4. *Weekends and holiday CED replacement.* Officers who need to replace CEDs or DPMs during weekends or city holidays shall replace the defective equipment by reporting to the shift commander on duty at the Salem Police Department headquarters.

5. *Returning CEDs due to retirement or separation.* Officers retiring or separating from the Department must turn in their issued CED and all CED equipment to the Taser Training Officer.

(o) *Audits.* Commanders shall periodically conduct random audits of CED data downloads and reconcile use-of-force reports with recorded activations. Supervisors shall take necessary action as appropriate when inconsistencies are detected.

(4) *Bean bag rounds.*

(a) The Department approved specialty impact munitions weapon is a Remington 870 pump shotgun, which is specifically designed and used to deploy bean bag rounds. The shotgun will have an orange stock that clearly identifies it as a less lethal weapon.

(b) Unless otherwise authorized by the Chief of Police, the bean bag round is the only department approved less lethal munitions.

(C) Sworn members assigned a shotgun for bean bag deployment will carry the weapon at full capacity, no round in the chamber and the safety in the "on" position. The designated specialty impact weapon will be kept secured in the officer's assigned vehicle in a manner that will not damage the weapon.

(d) Bean bag rounds may be used:

(i) As a method of controlling violent subjects where other verbal and physical force alternatives have been or would be ineffective or inappropriate.

(ii) Where authorized members would be potentially exposed to imminent death or great bodily harm if they were to attempt to overpower a violent person.

(iii) When the discharge of a specialty impact munitions may be the only alternative to lethal force. Intentional strikes to the head, neck, and genital area are not permitted unless under circumstances that would justify the use of lethal force. Multiple sworn members should be on-scene during the deployment of a specialty impact weapon to ensure that alternative response options are available in the event the need for force escalates and the use of lethal force is necessary.

(e) Bean bag rounds are not to be used when violent subject is within 20 feet of the officer bearing the Remington 870 pump shotgun.

(F) *Self defense.* The law of justifiable homicide authorized an officer to use deadly force when it reasonably appears necessary to protect himself or others from what reasonably appears as an immediate threat of great bodily harm or from imminent peril of death. The policy of this Department does not limit the law.

(G) *Saps, sap gloves, blackjacks, etc.*

(1) Members of the City Police Department and its Police Reserves are prohibited from the carrying of saps, sap gloves, blackjacks and other similar hand weapons while in the performance of police duties.

(2) No officers shall carry any type of offensive or defensive weapon unless authorized by the Chief of Police after formal training in the use of the weapon.

(Ord. 1993-8, passed 7-23-93; Am. Ord. 937, passed 5-11-98; Am. Ord. 959, passed 11-9-98; Am. Ord. 1464, passed 7-8-13)

Cross-reference:

Firearms policy, see §§ 37.055 through 37.063

§ 37.019 PATROL, ARREST AND COURT DUTIES.

(A) Officers will, during their tour of night duty, carefully observe all doors and windows of all business places to see that they are properly secured.

(B) Officers shall report all street lamps, automatic traffic signals, and the like, in disrepair or not working properly.

(C) All damage to city property shall be reported immediately to the Commanding Officer. (Example: damage to street sign).

(D) Officers making arrests shall report the details promptly to the officer on duty at the desk and shall make a detailed written report of the circumstances surrounding the arrest.

(E) An officer discovering a fire shall promptly report it by phone or radio. He shall immediately secure the safety of all people in the buildings. At night, he shall see that all persons in burning or threatened buildings are awakened. Officers shall post themselves in the street at each end of the block where the fire is located and shall divert vehicular traffic. The officer in command at the fire shall establish fire lanes and shall keep all unauthorized persons beyond danger and prevent them from interfering with the work of the Fire Department. He shall preserve order and protect the property saved. Any indication of incendiary origin shall be investigated.

(F) Officers at the scene of any accident in which any person suffers physical injury, or occurring as the result of any defect in the public place, or where it appears that the city may be held responsible for any injury or damage, shall make a careful and thorough investigation as to the cause of the accident and shall obtain and report all facts together with the name and address of all witnesses.

(G) Officers making an arrest shall convey the prisoner or cause him to be conveyed to the station or to the county jail without delay, and shall at no time accompany him to his home or room or elsewhere without obtaining the consent of a Superior Officer. Said consent may be granted via radio or by telephone. Officers, after making an arrest, shall thoroughly search the prisoner carefully before loading him into the patrol car or any other vehicle and shall immediately handcuff the prisoner and take possession of all dangerous weapons and all evidence.

(H) Officers shall report only the facts involved in arrests or court proceedings.

(I) Officers shall not render assistance in civil cases, except to prevent an immediate breach of peace, or to quell a disturbance actually commenced. Officers shall not testify in civil cases unless legally summoned to do so. Officers shall not serve civil processes except as provided by law.

(J) Officers shall not obtain attorneys or bondsmen for prisoners unless the prisoner requests that some particular attorney or bondsman be notified.

(K) Officers shall patrol the streets of the city and always be alert for any violation of the law or any citizen in distress.

(L) Officers shall act as public relation tools for the city.

(M) Officers shall be responsible for the prisoners they arrest.

(N) Officers shall be very knowledgeable in all criminal, civil, business and city ordinance laws.

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(O) Anyone calling in sick shall notify the Officer in Charge for that day before reporting in time.

(P) Any call involving serious injuries or death require the presence of the Officer in Charge (OIC).

(Q) Any officer wanting to be dropped off for lunch at his/her residence shall pick up a unit to take home with him/her if possible.

(R) Lunch breaks shall be limited to a maximum of one hour.

(S) Any Signal Eight meeting shall be made in an inconspicuous location and for as brief duration of time as required. Avoid the major shopping areas.

(T) All reports shall be taped unless directed otherwise. This is to minimize time spent on station.

(U) Officers shall avoid loitering on station.

(V) All investigations done by squad officers shall be cleared by the Officer in Charge. This includes any request for assistance made by other departmental divisions of other departments.

(W) Any officer going into a business location for personal reasons shall notify headquarters and turn on his portable radio. This stop should be as brief as possible.

(X) If any driver or owner is arrested and taken from control of his vehicle, a vehicle tow-in shall be made. This includes arrest made in traffic accidents.

(Y) No more than two officers and one car can go 10-5 out of the city at one time.

(Z) When the officer comes to headquarters for any reason, he/she will notify radio of such and the dispatcher will place it on the radio log, that is, 107 headquarters on reports, or 10-6 Unit II's Office, and the like. When the officer goes back on the street, he is to go 10-8 on his radio and this is to be noted on the radio log.

(AA) All appointments (that is, doctors, dentists, and the like) should be scheduled on the officer's off time, unless cleared by the Watch Commander.

(BB) It is the policy of the Salem Police Department that only sworn officers of the Salem Police Department will ride in police cars. Exceptions: The Salem Police Department's civilian personnel may ride in police cars for 10-5's and to be picked up or dropped off for work and other special situations determined by the Chief of Police. The Chief of Police may from time to time, authorize other groups or persons to ride in police vehicles.

(CC) Officers will make a case report when:

- (1) The articles taken amount to \$200 or over.

(2) There is a suspect in the case.

(3) An arrest is made.

(DD) Officers will make an accident report when:

(1) The damage is \$200 or over regardless of whether it is private property.

(2) It is a hit and run over \$200 or with a suspect vehicle or personal injury.

(3) Anytime a city-owned vehicle is involved in an accident.

(Ord. 1993-8, passed 7-23-93)

§ 37.020 DEPARTMENT COMMUNICATIONS.

(A) News releases will be given by the Chief of Police or Assistant Chief of Police. (Other than the exceptions set forth in § 37.020(D)). Only these two have the authority to override any part of the communication and news release rules.

(B) When a news release is given in the name of the Salem Police Department or as representing the Salem Police Department, it must first be cleared by the Chief of Police or Assistant Chief of Police.

(C) An employee or officer of the Salem Police Department will not make comments or news releases that are critical, false, negative or derogatory toward another person, group or organization in the name of the Salem Police Department. Nor shall they make these comments or news releases as a person representing the Salem Police Department. Nor shall they cause these comments or news releases to be made as a representative of the Salem Police Department. No part of this rule can be violated without first getting authorization from the Chief of Police or Assistant Chief of Police.

(D) No employee or officer may release the following to the news media:

(1) Name of a juvenile (under 18 years of age).

(2) Deceased or injured persons (unless the employee or officer is certain the next of kin has been notified). It is best to advise the person inquiring (based on the situation) to contact the hospital or coroner for this information.

(3) Suspect names, individual victims names, witness names, business not directly related to an incident.

(4) Confidential reports and information on child molestation.

(5) Child abuse or child neglect cases.

(E) *Arrest.* An employee or officer can release the name of any person arrested as long as he or she is not a juvenile.

(F) *Accident information.* An employee or officer can release any accident information, but if there is a death or injury, the employee or officer should make sure next of kin is first notified.

(G) *Case report information.*

(1) An employee or officer can release the nature of an incident and where it occurred, the person(s) arrested (not juveniles) and charges.

(2) If the news media is on the scene of an incident, an employee or officer can give them a brief summary of the facts relating to the incident. Otherwise, the employee or officer should notify them it is still under investigation and to contact the Chief or Assistant Chief of Police.

(H) If an employee or officer has any questions, the employee or officer should contact the Chief or Assistant Chief of Police (or their appointed designee when they are both absent).

(I) The purpose of the rules regarding news releases:

(1) To protect the Salem Police Department and the city against lawsuits.

(2) To protect innocent people from damaging and unnecessary publicity.

(3) To make sure the public gets only the facts as we know them.

(4) The victims of false, one sided or poor news information are the innocent people it involves and their families.

(5) The ultimate victim is the misled public. The Salem Police Department does not need to be, nor want to be, a party to this type of information.

(Ord. 1993-8, passed 7-23-93)

§ 37.021 HOURS; TIME OF DUTY; COMPENSATION, BENEFIT DAYS AND UNIFORMS.

(A) *Regular days off.*

(1) The scheduling of off duty time for squad personnel is the responsibility of the Assigned Officer.

(2) Regular off days shall have priority over vacation days, personal days and holidays.

(3) The changing of off days is permitted upon authorization of the Assigned Officer if manpower levels permit. This shall not be done excessively in order to prevent confusion and abuse.

(4) Any change of any off day shall take place within the posted monthly work schedule and may not be carried over into the following work period.

(5) An officer may have another officer as his/her stand-in to fulfill his duties. This request for a substitute officer shall be made at least 48 hours in advance if possible to the Assigned Officer. The Assigned Officer shall have the right to affirm or deny this request. The substitute shall not assume rank other than his own and will not have authority over a rank similar to his which is on the squad. The substitute officer must get permission from the Commander of his/her squad in order to fill in on another shift. This is to assure there will be no conflict on either's original shift.

(B) Vacation days, personal days, holidays and sick days are all governed by the personnel policy of the city.

(C) *Uniform, divisions and rank.*

(1) Officers in uniform must be dressed in street conformity to the regulations issued by the Chief of Police. Officers shall be neat and clean in appearance when in uniform. Officers on duty shall maintain a high polish on all leather and metal equipment. Officers shall be clean shaven.

(2) *Hair for the uniformed male officer.* The hair shall be neat and clean at all times. It shall be trimmed and groomed as to present such an appearance. Maximum length of the hair on the back of the head for the male officer may be extended to the top of the shirt collar. Block style haircuts are permissible. Hair on the side of the head may extend slightly over the ears, but in no case will it extend more than one inch over the outside surface of the ears. This length should give an appearance of the hair to fall just above the center of the ears. Grooming or combing of the hair will be in such a way, as to not fall below the eyebrows or bunch out to the front, sides or rear of the headgear. In no way is the hair to prevent the hat from securely fitting to the head.

(3) *Sideburns.* Sideburns will be of even width. They will be neatly trimmed and the length will not extend past the middle of the ear. They will end with a clean shaven horizontal line.

(4) *Mustaches.* Mustaches may be worn if neatly trimmed. They shall not extend over the top of the upper lip or beyond the corners of the mouth.

(5) *Beards and Goatees.* All types of beards and goatees are prohibited, except upon a doctor's statement that the wearing of a beard is for medical reasons.

(6) *Haircut for the uniformed female officer.* For safety purposes, long hair styles are not permitted to be worn. The hair will not extend below the lower most edge of the shirt collar at the back of the neck. Hair in the front will be groomed so that it does not fall below the eyebrows. Hair may be worn over the ears, as long as it is neat and clean and the bulk of the length does not interfere with the proper wearing of the hat. If the officer's hair is longer than the above policy, she must, while in uniform, conform to such a wearing style. Wigs are permitted as long as they conform.

(7) *Exceptions to above policy.* In instances of special assignments, including but not limited to the following: Undercover assignments, office work when in civilian clothing, Detective Division, and the like. Detectives will conform to hair styles compatible to job assignments, by order of their Shift Commander, unless otherwise specified by order of the Chief of Police.

(8) An officer shall, unless ordered on special duty, wear the prescribed uniform and carry the equipment required by order of the Chief of Police including the service pistol, billy club and any other equipment required for police duty. He shall conspicuously display his shield on the left breast.

(9) The basic color for the Salem Police Department is navy blue.

(10) *Hat.* Four star style, blue in color, with 2-1/8-inch bill. Braid will depend upon rank, gold for sergeant and up, silver for patrol officer to corporal as issued and designated by the Chief of Police.

(11) *Shirt.* Navy blue in color, dry cleanable type material.

(12) *Trousers.* Navy blue in color, with ¼-inch stripe. Gold or silver stripes, depending on rank. Length of trousers shall be sufficient to touch the heel of the shoe in the rear.

(13) *Shoes.* Black Clarino in color with plain toes. Boots may be worn on night watch or foul weather. Boots shall be polished.

(14) *Leather gear.* Black Clarino, items of belt are to be as follows: One holster, one handcuff case, magazine pouch and one nightstick holder. Other items on belt are to be worn with permission only. Holster type and model shall be approved by the Chief of Police.

(15) *Tie.* Long type. Navy blue in color for all uniforms.

(16) *Socks.* Navy blue or black in color.

(17) Whistle chain to be worn on center of right breast.

(18) White t-shirts to be worn during summer for summer uniform.

(19) Uniform officers may change to short sleeve shirts April 1 if the whole squad changes at once. It will be mandatory April 15. The same policy will apply to long sleeves, except the times will be November 1 to November 15.

(20) Changes made by permission of Chief of Police.
(Ord. 1993-8, passed 7-23-93)

§ 37.022 MAKING A JUVENILE ARREST.

(A) Any arrest involving a juvenile must be accompanied by a standard case report.

(B) If the juvenile arrested is to be cited to the probation office, a signed promise to appear form should be obtained from the legal parent or guardian and the juvenile should be cited to the probation office for 1:00 p.m. on the next working day.

(C) If the juvenile is to be cited to the juvenile officer, a signed promise to appear form should be obtained from the legal parent or guardian and the legal parent or guardian should be instructed to contact the Juvenile Officer on the next working day for an appointment.

(D) If circumstances arise and the juvenile must be placed in detention, the parent or legal guardian should be notified and all paperwork should be forwarded to the probation office as soon as possible. At the present time, this detention should take place at the Washington County Jail.

(E) These policies should be followed unless otherwise directed by the Shift Commander or the probation department.

(Ord. 1993-8, passed 7-23-93)

§ 37.023 DOMESTIC VIOLENCE.

(A) *Policy.* The Police Department recognizes the cycle of violence and the effect it has on the entire family, frequently involving siblings, abuse of parents, etc.; however, for the purpose of this general order, the Police Department will define “domestic violence” as any act of violence involving persons in an intimate or dating relationship or where one person seeks such a relationship with another. This would include cohabitants, boyfriends or girlfriends, separated or divorced couples, and other individuals who have, are seeking, or previously have had a sexual and/or intimate relationship, including same sex relationships.

Officers must take law enforcement action necessary to ensure the safety and well-being of all persons involved in or affected by the incident, including children. It is the policy of the Police Department that arrest is the preferred response to domestic violence incidents.

(B) *Legal References.*

- (1) Battery (IC 35-42-2-1)
- (2) Criminal mischief (IC 35-43-1-2)
- (3) Criminal recklessness (IC 35-42-2-2)
- (4) Criminal trespass (IC 35-43-2-2)
- (5) Disorderly conduct (IC 35-45-1-3)
- (6) Intimidation (IC 35-45-2-1)

- (7) Invasion of privacy (IC 35-46-1-15.1)
- (8) Pointing a firearm (IC 35-47-4-3)
- (9) Residential entry (IC 35-43-2-1.5)
- (10) Stalking (IC 35-45-10-1)

(C) *Procedures.*

(1) Anytime an officer investigates a domestic incident involving any degree of physical abuse or assault, an incident report *must* be prepared regardless of the wishes of the parties involved in the incident. All facts relative to the incident shall be noted on the report, even if no arrest is made. The report must be made attention to the Victim Assistance Unit and any other appropriate investigative unit.

(2) A person may be arrested for battery, misdemeanor A, when the officer has probable cause to believe the person has committed a battery resulting in bodily injury, even though the battery was not committed in the officer's presence. Injury includes any impairment of physical condition, including complaint of pain.

(3) Probable cause for the arrest can be developed by interviewing victims and witnesses to determine if a battery has occurred. Factors to consider include:

- (a) Visible signs of injury or impairment to the victim;
- (b) Complaint of pain by the victim;
- (c) Circumstantial evidence such as disheveled clothing, overturned furniture, etc.; or
- (d) Threats overheard by an officer or related by the victim or witnesses.

(D) If visible injuries, overturned furniture, broken items, etc. are found, photos shall be taken and attached to the report.

(E) If the officer, from his investigation, has probable cause to believe that a battery with injury has occurred, an arrest for battery should be made.

(F) It is a criminal offense to violate any "Stay Away Order". The four types of Stay Away Orders specifically covered by Invasion of Privacy (IC 35-46-1-15.1) are:

- (1) Emergency protective order - in effect for 30 days, can be issued without the respondent being in court.
- (2) Permanent protective order - issued only after the judge hears testimony. Such an order is usually in effect for one year; however, the order can be renewed.

(3) Temporary restraining order - issued in divorce cases, remains in effect for the duration of the court proceeding.

(4) No contact order - issued either as a condition of pre-trial release or diversion in a criminal case or condition of probation, remains in effect for the duration of the court proceeding or probation period.

If the order has been served, an arrest can be made for the Class B misdemeanor, Invasion of Privacy (IC 35-46-1-15.1).

(G) The Police Department recognizes that domestic violence is criminal conduct and, therefore, it is not necessary for the officer to:

- (1) Ask the victim(s) if they wish to prosecute or have the offender arrested; or
- (2) Request the victim(s) to execute an affidavit.

(H) If an arrest cannot be made due to the lack of probable cause, the victim should file a police report for review by the Washington County Prosecutor's Office.

(I) *Victim services.*

(1) Officers must make a reasonable effort to inform victims of the different services available for their protection and welfare (e.g., shelters, support groups, counseling services, etc.).

(2) Victims can be referred to the Victim Assistance Unit at 883-1959 for more specific recourse information. In extenuating circumstances, Victim Assistance personnel, when available, will respond to the scene to provide crises intervention.

(Ord. 1993-8, passed 7-23-93; Am. Ord. 953, passed 9-14-98)

JOB DUTIES AND RESPONSIBILITIES

§ 37.035 CHIEF OF POLICE.

(A) The Chief of Police shall be the Commanding Officer of the entire Police Department, subject to the laws of the United States, to the laws of the State of Indiana, to the ordinances of the city and to the rules and regulations set down by the Board of Public Works and Safety.

(B) This person shall have the power to promulgate such orders to the officers of the Police Department as he may deem proper, and it shall be the duty of all officers to render to this person and this person's orders implicit obedience in conformity to the laws and ordinances and to such rules and regulations as the Board of Public Works and Safety may adopt from time to time.

(C) Duties of the Chief of Police are as follows:

- (1) To plan the work of the Police Department.
- (2) To appraise the capacities and capabilities of the manpower for different types of police work.
- (3) The Chief is to be the final authority on personnel matters such as the selection and supervision of his highest ranking subordinates.
- (4) To make final decisions as to the Department's priorities as related to the various tasks of the organization.
- (5) To organize manpower and materials to meet the current needs.
- (6) To establish administrative machinery that will produce satisfactory results with speed, accuracy and minimum of friction and waste.
- (7) To establish clear-cut channels of communication, authority and responsibility.
- (8) To coordinate and integrate the various units of the Department so that they support and assist each other. To modify the program to combat current trends as revealed by study and analysis or records and reports.
- (9) To represent the Department in contracts with other City Departments, outside law enforcement agencies and the public.
- (10) To establish an honest and accurate reporting and recording system and medium for departmental reporting, to the public, to the police themselves and to other law enforcement agencies.
- (11) To develop an effective public relations program which will promote and maintain public understanding, public confidence and public support.

(12) To establish a comprehensive and understandable system of directives which will include policy statements, general and specific orders, training bulletins, standard operating procedures and rules and regulations.

(13) To promptly execute all directives of the Mayor, and issue such orders to the Department as may be required for proper enforcement.

(14) To prepare the Department's budget, supported by documentary proof of its justification.

(15) To train himself and his key subordinates on the principles of organization and management of personnel.

(16) To train his key subordinates and other responsible police personnel in administrative problem solving methodology.

(17) To initiate an adequate and progressive program of employee training at the recruit and in-service level.

(18) To develop the organizational structure in accordance with professional standards, and by consideration of sound span of control, integrate related activities under the control of intermediate subordinates. This person shall hold them accountable for effective conduct of such activities.

(19) To work for the strengthening and enactment of laws and ordinances for the restraint of criminal activities.

(20) To maintain an active alliance with professional police authorities and participate in programs for the mutual improvement of proficiency in combating organized crime and vehicular traffic problems.

(21) To determine and publish the order in which the ranking officers will succeed to command the organization in this person's absence.

(22) To establish and supervise a program of experience analysis and continued planning in preparation for the development of facilities to fulfill prospective requirements of the organization.

(23) To administer the fiscal affairs of the organization in a manner calculated to convert available resources into maximum effective police service, economically employed, in areas of demonstrable need.

(24) To visit and cause to be visited, at regular and unannounced times, all divisional property, bureaus, districts and units.

(25) To establish and maintain high ethical standards for the organizational personnel and exercise the vigilance necessary to sustain observance for such standards.

(26) To initiate investigation into all cases of alleged or apparent misconduct by organizational

personnel. Suspend from duty and prefer charges against any guilty member preparatory to a hearing or apply alternative authorized disciplinary measures when deemed necessary.

(27) To insure prompt reporting to other city agencies of any important matter falling within their jurisdiction.

(28) To conduct periodic meetings of his staff to discuss and resolve current policy, establish policy as needed and disseminate information.

(29) Must be very knowledgeable in criminal, civil, business and city ordinance laws.

(30) The rank of the Chief of Police shall be that of Colonel.
(Ord. 1993-8, passed 7-23-93)

§ 37.036 ASSISTANT CHIEF OF POLICE.

(A) It shall be the duty of the Assistant Chief of Police to act as Chief of Police with the same powers as enumerated above, when the Chief of Police is absent or when otherwise prescribed by the Chief of Police.

(B) Duties of the Assistant Chief of Police are as follows:

(1) This person shall be responsible for all matters pertaining to the operation of all units of the Department assigned to their command.

(2) This person's administrative duties shall include planning, organizing and directing the activities of assigned personnel and maintaining harmonious relations with other divisions.

(3) This person shall exercise authority, commensurate with their responsibility and be accountable directly to the Chief of Police.

(4) This person shall promptly obey and transmit all orders of the Chief of Police insuring uniform interpretation and full compliance.

(5) This person shall familiarize themselves with administrative policy and execute the service program within their area of responsibility.

(6) This person shall examine reports for conformity with the procedure for complete investigation and reporting, referring improper or incomplete reports in reverse order through original channels for correction.

(7) This person shall engage in continuous research and planning so that procedures and policies are adequate to meet current demands for police service at minimum cost.

(8) This person shall make daily examination of assignment sheets, time reports and all

miscellaneous reports concerning personnel.

(9) This person shall at irregular and unannounced times visit all units under his command, inspecting them for conditions and efficiency.

(10) This person shall submit to the Chief of Police, in prescribed form and detail such reports as may be required to accurately reflect the problems, services and activities of the various units in the division.

(11) This person shall assure that the duties of their subordinates are properly discharged.

(12) This person shall be available for duty at all times in case of special need or emergency.

(13) Must be very knowledgeable in criminal, civil, business and city ordinance laws.

(14) The rank of Assistant Chief of Police shall be that of Lieutenant Colonel.
(Ord. 1993-8, passed 7-23-93)

§ 37.037 MAJOR.

(A) It shall be the duty of the Majors of the Police Department to carry out all duties as prescribed by the Chief of Police, the Assistant Chief of Police, the Mayor and the Board of Public Works and Safety of the city.

(B) Majors shall be responsible for the general good order and discipline of their respective squads and the discipline of the personnel under their supervision.

(C) Majors shall make themselves thoroughly acquainted with the capabilities of the personnel of their command and note every case of misconduct or neglect of duty by members of the department and report the same to a Superior Officer.

(D) Additional duties of the Majors are as follows:

(1) They shall exercise authority, commensurate with their responsibility and be accountable directly to the Chief of Police.

(2) They shall promptly obey and transmit all orders of the Chief of Police insuring uniform interpretation and full compliance.

(3) They shall familiarize themselves with administrative policy and execute the service program within their area of responsibility.

(4) They shall at all times inform themselves of the affairs of their officers and be assured that the duties of their subordinates are properly discharged.

(5) Their hours of duty will be in accordance to the need of the Department. However, they shall be available for duty at all times in cases of special need or emergency. They will respond punctually to all of their assignments.

(6) They must be knowledgeable in criminal, civil, business and city ordinance laws.

(7) They will function in the capacity assigned by the Chief of Police.
(Ord. 1993-8, passed 7-23-93)

§ 37.038 CAPTAIN.

Duties of the Captain are as follows:

(A) This person is under the Major in the chain of command, and shall take command in the absence of the Major.

(B) They shall exercise authority, commensurate with their responsibility.

(C) They shall promptly obey and transmit all orders insuring uniform interpretation and full compliance.

(D) They shall familiarize themselves with administrative policy and execute the service program within their area of responsibility.

(E) They shall be very knowledgeable in all criminal, civil, business and city ordinance laws.

(F) They will function in the capacity assigned by the Chief of Police.
(Ord. 1993-8, passed 7-23-93)

§ 37.039 LIEUTENANT.

Duties of the Lieutenant are as follows:

(A) Lieutenants shall take command of the squad in the absence of the Captain.

(B) Lieutenants are to carry out the orders and details of all Superior Officers.

(C) Lieutenants should be very knowledgeable in all criminal, civil, business and city ordinance laws.

(D) Lieutenants will function in the capacity assigned by the Chief of Police.

(E) Lieutenants will have the same duties as a Sergeant and Corporal, but in a supervisory capacity.
(Ord. 1993-8, passed 7-23-93)

§ 37.040 SERGEANT.

Duties of the Sergeant are as follows:

(A) Sergeants shall take command of the squad in the absence of the Lieutenant.

(B) Sergeants are to carry out the orders and details of the Superior Officers.

(C) Sergeants should be very knowledgeable in all criminal, civil, business and city ordinance laws.

(D) Sergeants are under the Lieutenants in the chain of command and in the absence of the Lieutenant, they will carry out all duties and responsibilities of the Lieutenant.

(E) Sergeants will have the same duties as a Corporal, but in a supervisory capacity.

(F) Sergeants will function in the capacity assigned by the Chief of Police.
(Ord. 1993-8, passed 7-23-93)

§ 37.041 CORPORAL.

Duties of the Corporal are as follows:

(A) Corporals shall take command of the squad in the absence of the Sergeant.

(B) Corporals are to carry out the orders and details of the Superior Officers.

(C) Corporals should be very knowledgeable in all criminal, civil, business and city ordinance laws.

(D) Corporals are under the Sergeants in the chain of command and in the absence of the Sergeant, they will carry out all duties and responsibilities of the Sergeant.

(E) Corporals will have the same duties as a patrol officer, but in a supervisory capacity.

(F) Corporals will function in the capacity assigned by the Chief of Police.
(Ord. 1993-8, passed 7-23-93)

§ 37.042 K-9 OFFICER.

Duties of the K-9 Officer are as follows:

(A) To familiarize division personnel of the K-9 Unit Operating Procedure.

(B) To augment uniform division strength in order to accomplish the police objectives.

(C) To secure the maximum use of the K-9 Unit and the police operation.

(D) All searches of suspects in the presence of police dogs shall be performed by members of the K-9 Unit.

(E) K-9 Teams have been trained to assist in the following areas:

(1) Search of buildings or areas involving various types of offenses.

(2) Search for physical evidence at crime scenes.

(3) As a psychological deterrent in high crime areas such as parks, wooded locations and areas surrounding industrial and business locations, schools and other institutions.

(4) Crowd control situations (only on orders from Chief of Police).

(5) Tracking lost persons, children or walk-aways.

(6) The Shift Commander shall decide if a K-9 Officer is needed at the scene.

(F) The K-9 Officers are responsible for maintaining individual records. Each officer will maintain the following:

(1) K-9 search reports.

(2) Individual training records.

(3) Inventory of assigned equipment.

(4) Other Department records as required by the Chief of Police.

(G) The K-9 Officers shall assist the Public Relations Department in programs or demonstrations in order to strengthen public relations between the citizens of the community and the Police Department personnel when cleared by their supervisor.

(Ord. 1993-8, passed 7-23-93)

§ 37.043 DISPATCHERS.

(A) *Duties.* Duties of the dispatcher are as follows:

(1) Receive complaints, reports and any other information from the public over the telephone and dispatch to officers in cars on patrol.

(2) Assist the public and anyone else who comes into the Police Department.

(3) Assist officers with investigations through knowledge of IDACS Computer, City Directory and Warrants.

(4) Coordinate, receive and dispatch any and all messages, records checks, and the like between all law enforcement agencies throughout the state, through the use of the computer and maintain a log on IDACS and NCIC.

(5) Maintain accurate logs of all transactions between cars and radio. Maintain an orderly record system pertaining to the operation of the Police Department, tow-in cards, bike theft reports, and the like.

(6) Send out final notices, collect money and make receipts for parking tickets.

(7) Contact any agencies that are needed when a problem arises, that is, phone company, public service, Street Department, ambulance, Fire Department, and the like.

(8) Coordinate court list and assist courts with pre-sentence investigations.

(9) Monitor all alarms to banks, U.S. Army Reserve Center, and the like.

(10) Must be cleared by FCC as radio operator.

(11) Must be an IDACS and NCIC operator.

(B) *Guidelines for dispatchers.*

(1) Dispatchers will abide by the departmental rules, regulations, standard operating procedures and city ordinances that pertain to them.

(2) Dispatchers will follow the orders of the Shift Commander in charge of the shift they are working at any given time.

(3) Dispatchers will be on time. Chronic lateness may be reprimanded.

(4) Dispatchers shall make every effort to arrive up to five minutes early so information can be passed on by the off-going dispatcher.

(5) Dispatchers are expected to work their scheduled shifts.

(a) This job should be considered the dispatcher's primary job.

(b) Part-time dispatchers are expected to be available to fill in for full-time dispatcher when the full-time dispatcher is off.

(c) Part-time dispatchers will be available unless they have a legitimate reason for being unavailable.

(d) Constant unavailability may be reprimanded.

(6) If a dispatcher is going to be off sick they are to notify the scheduling dispatcher as far in advance as possible, preferably no less than four hours in advance.

(7) Dispatchers can trade days for legitimate and valid purposes at the discretion of the scheduling dispatcher. No less than two days advanced notice is required, except in emergency situations.

(8) If a dispatcher needs to be off and cannot contact the scheduling dispatcher, they may then contact the dispatcher next in line by seniority. Every effort should be exhausted to contact the scheduling dispatcher before contacting the second senior dispatcher.

(a) If the second senior dispatcher is contacted, he or she will notify the senior dispatcher of any changes at the earliest opportunity.

(b) Shift commanders will be notified of any scheduling changes for dispatchers by the scheduling dispatcher.

(9) Part-time dispatchers will only be paid for actual hours worked.

(10) The scheduling dispatcher will keep and turn in work time for part-time dispatchers.

(11) In the chain of command, the dispatcher is directly under the Assistant Chief of Police. Any questions pertaining to them or their job should be referred to him.

(C) *Full-time dispatchers.*

(1) *Overtime; comptime.* Full-time dispatchers will be paid 1½ times in comptime for any hours worked over 40 hours per week. The week beginning at 6:00 a.m. on Sunday and ending at 6:00 a.m. the following Sunday.

(2) *Vacation, holidays and sick leave.* These benefits are set by the Common Council in ordinance form.

(D) *Part-time dispatchers.*

(1) *Purpose.*

(a) Part-time dispatchers were created to augment the Police Department and at the same time decrease expenditures per street officer by relieving the full-time dispatchers when they are off for any of the following five reasons.

1. Vacation day;
2. Holiday;
3. Sick day;
4. Regular off day;
5. Compensation day.

(b) Due to the nature and purpose of a part-time dispatcher, they do not receive off-time or pay-back time for holidays, nor do they receive any vacation time or sick leave.

(2) *Pay scale.* Set annually by the Common Council.

(3) *Overtime pay.* If a part-time dispatcher works over 40 hours in a seven-day week, beginning at 6:00 a.m. on Sunday and ending at 6:00 a.m. the following Sunday, they will be compensated at 1½ times their regular pay.

(Ord. 1993-8, passed 7-23-93)

§ 37.044 DETECTIVE.

Duties of the detective are as follows:

(A) Detectives shall investigate any complaint of criminal acts made by citizens, other members of the Police Department, or any other law enforcement agencies, whether felony or misdemeanor.

(B) Detectives shall work in close cooperation with other law enforcement agencies to bring both local investigations and investigations from other jurisdictions to successful conclusions.

(C) They shall exercise authority, commensurate with their rank and responsibility.

(D) Detectives should be very knowledgeable in all criminal, civil, business and city ordinance laws.

(E) Detectives shall research and analyze trends and conditions of criminal conduct in the community, county and State of Indiana.

(F) Detectives shall monitor all original case reports performed by lower level officers to ensure accuracy, thoroughness, and timely completion.

(G) Detectives will function in the capacities assigned by the Chief of Police.
(Ord. 1214, passed 1-10-06)

FIREARMS POLICY

§ 37.055 DISCHARGE OF FIREARMS REGULATED.

(A) An officer shall not discharge a firearm in the performance of his or her duties except under the following circumstances and after all other reasonable means fail:

(1) To prevent serious bodily injury to himself or herself or to a third person. ***SERIOUS BODILY INJURY*** is defined in IC 35-31.5-292 as bodily injury that creates a substantial risk of death or that causes serious permanent disfigurement, unconsciousness, extreme pain, or permanent or protracted loss or impairment of the function of a bodily member or organ.

(2) To effect the arrest of an adult felon, to prevent escape of an adult felon, or to recapture an adult felon escapee when other means have failed and, where feasible, some warning has been given, provided that the crime for which the arrest is undertaken involved conduct constituting the use or threatened use of deadly force (***DEADLY FORCE*** is defined in IC 35-31.5-85 as force that creates a substantial risk of serious bodily injury), and that the officer has probable cause to believe that the suspect poses a threat of serious bodily injury either to the officer or to others if his or her apprehension is delayed.

(3) To kill a dangerous animal or one that is so badly injured that humanity requires its removal from suffering when other disposition is impractical.

(4) To give alarm or call assistance of an important reason when no other means can be used.

(5) For target practice at an approved range.

(B) An officer shall not fire at persons known to be or suspected of being juveniles (persons less than 18 years old), except under the circumstances provided in division (A)(1) of this section.

(C) Firearms shall not be discharged:

(1) As a warning;

(2) At a moving or fleeing vehicle unless the circumstances come under division (A)(1) of this section.

(Res. passed 1-6-86)

Cross-reference:

Use of force and firearms, see § 37.018

Discharging firearms, see § 130.01

§ 37.056 LOSS; OTHER DISPOSITION OF FIREARMS.

An officer shall file a written report to the Chief immediately following any damage to, loss, theft or other disposition of a police firearm and shall list a complete description of the firearm including serial number and shall detail all facts surrounding the incident.

(Res. passed 1-6-86)

§ 37.057 PROCEDURE UPON DISCHARGE OF FIREARM.

The following procedure shall be followed when a firearm is discharged other than at an approved range for practice. Notification and report by member involved:

(A) (1) Whenever an officer discharges his or her firearm accidentally or in the performance of his or her duties, he or she shall verbally notify his or her on-duty supervisor as soon as time and circumstances permit, but no later than the end of the shift.

(2) If a command officer is not on duty at the time of discharge he or she shall notify the ranking officer on duty at the time.

(3) If there is injury sustained by the discharge of his or her firearm or property damage, the officer or his or her supervisor shall notify the Chief and firearms training officer as soon as time and circumstances permit.

(B) A member who discharges his or her firearm shall file a written report of the incident with the members of the Review Board within 24 hours.

(C) If the officer who discharged his firearm is hospitalized or fatally injured and incapable of filing the report as required in division (B) of this section, his or her supervisor or ranking officer is responsible for filing as complete a report as possible, pending further departmental investigation.

(Res. passed 1-6-86)

§ 37.058 INVESTIGATION BY RANKING OFFICER.

(A) Each discharge of a firearm shall be investigated personally by the ranking officer on duty. If no ranking officer is on duty or if the ranking officer is involved, the other officer on duty will immediately notify the Chief, Assistant Chief, or firearm training officer as soon as time and circumstances permit.

(B) After conducting a thorough investigation of the circumstances, the ranking officer shall submit a detailed written report of the results to the Chief. This report shall also contain the observation and conclusions of the officer investigating as to whether the discharge was justified and in accordance with the policy provided in this subchapter.

(Res. passed 1-6-86)

§ 37.059 BOARD OF REVIEW.

(A) Members consist of the following along with others who may be designated by the Chief:

- (1) Chief-Chairperson;
- (2) Firearms Training Officer;
- (3) One supervisor.

(B) *Meeting of the Board.* A meeting shall be called by the Chairperson within a reasonable time after he learns of the discharge of a firearm.

(C) *Authority of the Board.*

(1) The Board is authorized to review the circumstances of each discharge of a firearm by an officer of the Department to determine whether to recommend disciplinary action to the Chief.

(2) The Chief makes the final decision within the Department whether disciplinary action is taken against the officer and the nature and extent of the action. All final authority in regard to disciplinary proceedings lies with the Board of Public Works and Safety pursuant to procedures set out in IC 36-8-3-4.

(D) *Board of Review alternates.* If either the firearms training officer or the supervisor member of the Board of Review is the subject of an investigation for discharge of a firearm, the Chief of Police shall designate a substitute member from within the city Police Department. If the Chief of Police is the subject of the review procedure for discharge of a firearm, then the Mayor of the city shall designate a substitute Board of Review member from within the city Police Department.

(Res. passed 1-6-86)

§ 37.060 WEAPONS INSPECTION AND MAINTENANCE.

(A) Each officer before beginning his or her tour of duty shall inspect his or her weapon to ascertain that it is properly loaded and in working condition.

(B) Each officer shall inspect the shotgun in the unit before his or her tour of duty to ascertain that it is clean, loaded, and in working condition.

(C) Each officer shall, after discharge of his or her weapon, clean and lightly oil the exterior of that weapon (except in the case of an on duty discharge resulting in the shooting of an individual).

(D) An officer shall not remove the sideplate of his or her weapon nor tamper with any internal mechanisms unless explicitly instructed to do so under the supervision of the firearms instructor or armorer.

(Res. passed 1-6-86)

§ 37.061 FIREARMS QUALIFICATIONS.

(A) Each officer shall fire his or her duty weapon periodically in practice sessions conducted by a qualified firearms instructor.

(B) Each officer attending these sessions shall fire his or her weapon in accordance with instructions of the firearms instructor present.

(C) Each officer shall be expected to fire all allocated ammunition to maintain a reasonable level of proficiency.

(Res. passed 1-6-86)

§ 37.062 NONCOMPLIANCE; DISCIPLINARY ACTION.

Any officer who willfully fails to comply with the above rules and regulations set forth in this subchapter shall be subject to reprimand and/or disciplinary action before the Board of Review and possible referral of the misconduct to the Board of Public Works and Safety of the city pursuant to the provisions of IC 36-8-3-4.

(Res. passed 1-6-86)

§ 37.063 AMMUNITION.

(A) Duty ammunition is .40 caliber 180 grain jacketed hollow points and rifle slugs and 00 buckshot for duty shotguns.

(B) Range ammunition is .40 caliber 180 grain full metal jacket.

(C) Duty ammunition will be factory “unfired” new.

(D) Range ammunition may be either reloaded ammunition purchased from a reputable ammunition reloading company or factory new ammunition.
(Res. passed 1-6-86; Am. Ord. 937, passed 5-11-98)

TAKE-HOME VEHICLE POLICY

§ 37.075 POLICY.

All Salem Police Department personnel shall operate Department vehicles in a safe, lawful and prudent manner during routine patrol and off-duty driving. Personnel issued Department vehicles shall see to the maintenance of his/her vehicle and shall keep the vehicle clean. This policy shall remain subject to provisions of § 36.19, which describes the use of city vehicles by city personnel generally.
(Ord. passed 8-10-92)

§ 37.076 MAINTENANCE AND APPEARANCE.

(A) Only unleaded fuel is to be used in police vehicles.

(B) Use only motor oil which is specified. (Kept at city garage.)

(C) All maintenance or repair of police vehicles is to be performed at the city garage unless otherwise authorized by the Vehicle Maintenance Supervisor, Chief of Police, or other duly designated authority.

(D) No mechanical or electrical alteration shall be made without authorization.

(E) Non-issued equipment such as scanners, CB radios, and the like, shall not be installed without permission from the Vehicle Maintenance Supervisor, Chief of Police, or other duly designated authority.

(F) The officer assigned take-home vehicles is responsible for maintaining the vehicles in a neat and clean condition. He/she is also responsible for conducting such periodic maintenance checks as are necessary to assure that the mechanical and safety integrity of that vehicle is maintained.

(G) No holes shall be drilled in the exterior shell or interior of any police vehicle without permission from the Vehicle Maintenance Supervisor, Chief of Police, or other duly designated authority.

(H) Police vehicles shall be serviced every 3,000 miles.
(Ord. passed 8-10-92)

§ 37.077 OPERATION OF VEHICLE.

(A) Jump starts for the general public are prohibited.

(B) No towing or pushing of other vehicles will be allowed.

(C) No article which might draw criticism from the general public or cause embarrassment to the Department will be carried or installed in or on any police vehicle.

(D) Any and all damage must be reported to the Vehicle Maintenance Supervisor, Chief of Police, or other duly designated authority.

(E) When driven off duty:

(1) Vehicles may be used for reasonable and limited personal transportation.

(2) Vehicles may not be driven outside of the city unless being driven to and from the officer's place of residence, in the performance of duty, or with the prior authorization of the Chief of Police.

(3) Police radios will be left on and in audible position.

(4) Officers will observe no less than casual dress. (No shorts.)

(F) Only a city employee can drive a city-owned vehicle (police car). City employees are not authorized to allow any family member, or anyone else, to operate the vehicle except under extreme or exigent circumstances.

(G) No officer shall drive or use an assigned vehicle in a "Signal 10" run while any member of the officer's family is in the vehicle.

(H) No officer shall drive or use an assigned vehicle in such a way as to reflect discredit on the Department. Examples such as, but not limited to:

(1) Violation of any traffic law - unless necessary in the performance of duty.

(2) Hauling of pets.

(3) Improper dress.

(4) Hauling objects that are conspicuous and/or protrude from the vehicle.

(5) Other indiscreet uses of the vehicle.

(I) The officer shall be responsible for the conduct of all passengers in his/her vehicle.

(J) All Department vehicles shall be locked and properly secured when left unattended, except when prohibitive with normal duty functions.

(K) Anytime an off-duty unit responds to a police call or is involved in any policy-oriented activity the officer will notify the dispatcher.

(L) Officers are not to use a Department vehicle in personal employment or business.

(M) Officers shall forfeit the use of the take-home vehicle for the abuse of the above stated rules and policy, or for any activity that would be considered inappropriate in the operation or maintenance of his/her assigned vehicle.

(N) For the purpose of this section and § 37.015 the location of an officer's residence being within a 30 mile radius from the corporate city limits of the city shall be understood to mean and to be defined as: radius is the distance in any direction from the closest point of the corporate city limits to the residence. Should this point exceed 30 miles then the officer shall request, prior to the residential change, approval by the Board of Public Works and Safety and according to the laws of the state, in such cases.

(Ord. passed 8-10-92; Am. Ord. 2021-28, passed 12-13-21)

POLICE RESERVES

§ 37.090 APPOINTMENT OF MEMBERS.

The Board of Public Works and Safety, as the governing body of the Salem Police Department, is hereby authorized to appoint up to 20 individuals as police reserves.

(Ord. 689, passed 8-6-90; Am. Ord. 898, passed 6-16-97; Am. Ord. 1214, passed 1-10-06; Am. Ord. 1357, passed 4-12-10)

§ 37.091 POWERS.

These police reserves shall not be paid members of the Police Department, but shall have and perform all powers and duties as a regular police officer including the power of arrest; the power to conduct a search or seizure of a person or property; or the authority to carry a firearm. These powers and duties shall not be assumed until the requirements of § 37.093 of the Salem City Code have been complied with.

(Ord. 689, passed 8-6-90; Am. Ord. 898, passed 6-16-97)

§ 37.092 COMPENSATION.

(A) Police reserves shall not receive a salary or regular payroll compensation and are not eligible to participate in any police pension program.

(B) Police Reserves appointed herein shall receive compensation in the following forms:

(1) A uniform allowance which shall be paid solely for reimbursement of actual uniform expenses incurred. This reimbursement shall only take place upon the individual Reserves Officer's completion of six months' service to the city.

(2) The provision of ammunition for the firearm of the Police Reserves previously approved by the Chief of Police before placed into service. Each Reserves Officer shall furnish his/her own personal firearm and no compensation or reimbursement shall be made to that officer for the expense of the firearm itself.

(3) The Police Reserves Officer may participate in the city's Group Life, Accident and Sickness Insurance Coverage.

(4) The Police Reserves Officer shall be provided coverage at the expense of the city with its medical treatment and burial expense provisions under the Indiana Workers Compensation Law. (Ord. 689, passed 8-6-90; Am. Ord. 898, passed 6-16-97; Am. Ord. 903, passed 8-11-97)

§ 37.093 TRAINING AND PROBATIONARY REQUIREMENTS.

(A) Any police reserve appoint by the Board of Public Works and Safety shall only begin duties once he/she has fulfilled the minimum training requirements set out in IC 5-2-1-9(f) which consists of the Indiana Law Enforcement Training Board's approved 40-hour Pre-Basic Training Curriculum. Upon the satisfactory completion of this Pre-Basic Training, the police reserve may then exercise the power set out in § 37.091 of this chapter.

(B) Each reserve officer shall complete the annual requirement of a minimum of 16 hours of in-service training as mandated by IC 5-2-1-9(g) for all law enforcement officers. (Ord. 689, passed 8-6-90; Am. Ord. 898, passed 6-16-97)

ABANDONED MOTOR VEHICLE AND IMPOUNDING POLICY

§ 37.100 PURPOSE.

The purpose of this policy is to establish guidelines for the removal and impounding of abandoned vehicles, the removal of certain other vehicles as provided by law, to protect the property rights of the owner of such property, to protect the department and its employees and the private business having custody of said vehicle from false claims of lost or damaged property, to assure the safety and security of the vehicle and to protect officers and others from any dangers that the contents of the vehicle may pose.

(Ord. 1151, passed 6-8-04)

§ 37.101 POLICY.

(A) It is the policy of the Police Department that each vehicle towed or impounded at the discretion of an officer of the Department shall be completely inventoried. This policy shall apply to every vehicle impounded for any of the following reasons:

- (1) Seized incident to an arrest;
- (2) Because no occupant has a valid operator's license;
- (3) Because it is a recovered stolen vehicle;
- (4) A traffic hazard;
- (5) Abandoned;
- (6) Seized as evidence;
- (7) Involved in a traffic accident; or
- (8) For any other legal reason.

(B) NOTE: If the vehicle contains contraband or fruits or instrumentalities of a crime, a consent to search or search warrant must be obtained.

(C) This policy shall apply to all vehicles towed, except those towed because of damage caused at accidents, to protect rights of the owner of such property and to protect the department and its employees and the private business having custody of said vehicle from false claims of lost or damaged property.

(D) This policy does not apply to:

(1) A vehicle in operable condition specifically adopted or constructed for operation on privately owned raceways;

(2) A vehicle stored as the property of a member of the armed forces of the United States who is on active duty assignment;

(3) A vehicle located on a vehicle sales lot;

(4) A vehicle located upon property licensed under IC 9-18-12 as an antique vehicle; or

(5) A vehicle located on property licensed or zoned as an automobile scrap yard.
(Ord. 1151, passed 6-8-04)

§ 37.102 DEFINITIONS.

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

ABANDONED VEHICLES.

(1) A vehicle located on public property illegally;

(2) A vehicle located on public property continuously without being moved for three days; provided, however, a properly licensed vehicle located on public property in front of the legal residence of the owner of said vehicle, and not situate in a “NO PARKING” zone, shall not be considered abandoned vehicle until 30 days have expired;

(3) A vehicle located on public property in such a manner as to constitute a hazard or obstruction to the movement of pedestrian or vehicle traffic on a public right-of-way;

(4) A vehicle from which there has been removed the engine, transmission, or differential or that is otherwise partially dismantled or inoperable and left on public property;

(5) A vehicle that has been removed by towing service or a public agency upon the request of an officer enforcing a statute or ordinance, if the vehicle once impounded is not claimed or redeemed by the owner or his agent within 20 days of its removal.
(Ord. 1151, passed 6-8-04)

§ 37.103 PROCEDURES.

(A) The following actions regarding notice tags and abandoned vehicle reports shall be taken:

(1) Date, time, officer’s name, and address and telephone number of the Police Department;

(2) That the vehicle or parts are considered abandoned;

(3) That the vehicle or parts will be removed after 72 hours;

(4) That the person who owns the vehicle will be held responsible for all costs incidental to the removal, storage and disposal of the vehicle;

(5) That the person who owns the vehicle may avoid costs by removal of the vehicle or parts within 72 hours;

(6) After 72 hours, the officer shall require the vehicle be towed to a storage area.

(B) Abandoned vehicle guidelines.

(1) Within 72 hours after removal of an abandoned vehicle to a storage area, the officer shall prepare and forward to the Bureau of Motor Vehicles an abandoned vehicle report containing a description of the vehicle, including the following concerning the vehicle:

(a) Make;

(b) Model;

(c) VIN Number; and

(d) License plate number.

(2) The officer shall request the Bureau of Motor Vehicles to advise the department of the name and the most recent address of the person who owns or holds a lien on the vehicle.

(C) Disposition of inventory form. The original inventory form shall be attached to the officer's report and delivered to the Police Department Administrative personnel for filing. A copy of the inventory form shall be kept in the dispatch room for all vehicles that have a hold placed on the vehicle. A copy of the inventory form shall be kept in the property room with any property that is secured for storage, or evidence. If charges are to be filed, a copy of the inventory form shall be sent to the Prosecutor's Office along with other documents.

(Ord. 1151, passed 6-8-04)

CHAPTER 38: CLAIMS

Section

- 38.01 Payment of claims in advance of Board allowance
- 38.02 Authorization for the use of credit cards and purchasing cards for city purchasing

§ 38.01 PAYMENT OF CLAIMS IN ADVANCE OF BOARD ALLOWANCE.

(A) The Clerk-Treasurer, pursuant to the provisions of IC 36-4-8-14, is authorized to allow money to be disbursed to make claim payments in advance of board allowance for the following kinds of expenses:

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

(13) Expenses described in an ordinance.

(B) Each payment of expenses under this chapter must be supported by a fully itemized invoice or bill and certification by the Clerk/Treasurer.

(C) The Common Council or the Board of Public Works and Safety, having jurisdiction over the allowance of the claim, shall review and allow the claim at its next regular or special meeting following the pre-approved payment of the regular expense by the Clerk-Treasurer.

(Ord. 989, passed 11-8-99)

§ 38.02 AUTHORIZATION FOR THE USE OF CREDIT CARDS AND PURCHASING CARDS FOR CITY PURCHASING.

(A) *Purpose.* This section is adopted in compliance with the *State Board of Accounts Accounting and Uniform Compliance Guidelines Manual for Cities and Towns*, Chapter 7, authorizing a city to use credit cards for purchases.

(B) *Personnel authorized to use.* The following city employees and officials may use city credit cards and purchasing cards for purchases related to the performance of city duties when such use is in the best interest of the city: Mayor, Administrative Assistant to Mayor, Clerk-Treasurer, First Deputy Clerk-Treasurer, Police Chief, Assistant Police Chief, Fire Chief, Assistant Fire Chief, Park and Recreation Director, Animal Control Officer, Cemetery Sexton, Wastewater Utility Superintendent, Water Utility Superintendent, Street Superintendent, and Building Inspector.

(C) *Authority to obtain.* The Clerk-Treasurer is authorized to obtain credit cards and/or purchasing cards titled to the city.

(D) *Safekeeping of cards.* The Clerk-Treasurer, or his/her designee, shall be responsible for safekeeping of the credit cards and purchasing cards.

(E) *Approval required; usage log.* City credit cards and purchasing cards shall be used only with the approval of the Clerk-Treasurer, or his/her designee. The Clerk-Treasurer shall maintain a usage log for each card identified by card account number, with entries certified by signature of the Clerk-Treasurer, or his/her designee. The log shall include the following information:

(1) The name and position of the individual using the city's card;

(2) Upon issuance: the date the card is issued to the individual, the estimated amounts to be charged, the type of expenses, and the appropriation account numbers to be expended; and

(3) Upon return: the date the card is returned and the amount charged to the card.

(F) *Use limited to city business.* City credit cards and purchasing cards shall be used for purchases relating to the performance of city business only. No personal use of a city credit card or purchasing card is allowed, even if an employee offers to reimburse the city for the employee's personal use of a city credit card or purchasing card.

(G) *Audit requirements.* Payment of credit card and purchasing card bills shall be subject to the audit requirements of accounts payable vouchers in conformity with IC 5-11-10 and IC 36-4-8 and the regulations of the State Board of Accounts. Itemized receipts are required for all credit card and purchasing card purchases, including restaurant charges. Payment will not be made on the basis of a credit card or purchasing card statement. Signed charge slips showing a total charge only, with no itemization of items purchased, are not acceptable. It is the responsibility of the employee authorizing the charge to obtain proper itemized receipts.

(H) *Employee responsibility.* Credit card and purchasing card charges that do not meet audit requirements, including charges that include the imposition of sales taxes for which the city is otherwise exempt, are the responsibility of the employee authorizing the charge. The city will take all necessary steps to obtain reimbursement for charges which do not meet audit requirements from the employee authorizing the charge, including, but not limited to, the garnishment of the charging employee's city wages.

(I) *Interest or penalty responsibility.* Any interest or penalty incurred due to late filing with the Clerk-Treasurer of an accounts payable voucher for payment of a credit card or purchasing card bill, or incurred due to delay in furnishing of documentation required for audit by an officer or employee, shall be the responsibility of that officer or employee.

(J) *Lost or stolen card.* The Clerk-Treasurer shall be notified immediately if a credit card or purchasing card is lost or stolen. If a credit card or purchasing card is lost due to negligence on the part of a city employee, the employee shall be responsible for any and all expenses incurred on the lost credit card or purchasing card.

(K) *Revocation of card.* The Clerk-Treasurer is authorized to revoke credit cards or purchasing cards that have been used in violation of city policy.
(Ord. 1321, passed 4-13-09)

CHAPTER 39: USE OF INFORMATION TECHNOLOGIES

Section

- 39.01 General
- 39.02 System security
- 39.03 Software licenses
- 39.04 Data backup
- 39.05 Prohibited uses of information technologies resources
- 39.06 Use of Internet and electronic mail (e-mail)
- 39.07 Internet access
- 39.08 Downloading from the Internet
- 39.09 Electronic mail (e-mail)
- 39.10 Prohibited uses of the Internet

§ 39.01 GENERAL.

Computers, computer files, networks, hardware and software are city property intended for business use. To retain privileges of network access, each user of city information technologies is expected to meet certain responsibilities and honor certain limitations. Additional responsibilities may be associated with specific networks. Any network traffic exiting the city is subject not only to provisions of this policy, but also to the acceptable use policies of any network through which or into which it flows. Employees should immediately report any violation of this policy to their elected official/department head. Questions concerning these policies should be directed to the employee's elected official/department head.

(Ord. 1498, passed 9-8-14)

§ 39.02 SYSTEM SECURITY.

(A) Employees are responsible for the use of their accounts and the security of their passwords. As such, an employee may not give anyone else access to his or her account, or use a city computer account assigned to another user. A user must not attempt to obtain a password for another employee's computer account. If an employee suspects someone else knows his or her password, the employee should contact his or her elected official/department head immediately.

(B) Employees shall not use the network resources of the city to gain or attempt to gain unauthorized access to remote computers, networks or systems, nor shall they attempt to circumvent data

protection schemes or exploit security loopholes. Employees may not place on any city-owned computer system any type of information or software that gives unauthorized access to another computer account or system.

(C) Violations of this policy are subject to disciplinary action, up to and including termination. (Ord. 1498, passed 9-8-14)

§ 39.03 SOFTWARE LICENSES.

(A) The city purchases and licenses the use of various computer software for business purposes and does not own the copyright to the software or its related documentation. Unless authorized by the software developer, the city does not have the right to reproduce such software for use on more than one computer.

(B) Employees may only use software on multiple machines according to software license agreements. The city prohibits the illegal duplication of software and its related documentation. No licensed or unlicensed software may be installed on city computers that has not been authorized by the city.

(C) Employees should immediately report violations of this policy to their elected official/department head. City employees who make, acquire or use unauthorized copies of computer software are violating federal copyright law and are subject to disciplinary action, up to and including termination.

(Ord. 1498, passed 9-8-14)

§ 39.04 DATA BACKUP.

Users of personal computers are responsible for protecting their work by making regular backup copies of their work files and storing the copies in a safe location. They should set the frequency of backup based on their ability to recreate information added since the last backup.

(Ord. 1498, passed 9-8-14)

§ 39.05 PROHIBITED USES OF INFORMATION TECHNOLOGIES RESOURCES.

(A) Employees shall not deliberately perform acts that are wasteful of computing resources, or that unfairly monopolize resources to the exclusion of others. Conduct that presents a risk to the operating integrity of the information technologies systems is strictly prohibited.

(B) Employees shall not deliberately perform acts that will impair the operation of computing equipment, peripherals, other devices or networks. This includes, but is not limited to, tampering with

components of a local area network (LAN) or the high-speed backbone network, otherwise blocking communication lines, or interfering with the operational readiness of a computer.

(C) Employees shall not install on any of the city computer systems, or give to another user, a program that could result in the eventual damage to a file or computer system, and/or the reproduction of itself. This includes, but is not limited to, the classes of programs known as computer viruses, such as “Trojan horses” and “worms”.

(D) Violations of this policy are subject to disciplinary action, up to and including termination. (Ord. 1498, passed 9-8-14)

§ 39.06 USE OF INTERNET AND ELECTRONIC MAIL (E-MAIL).

(A) Employees may be provided access to the Internet and e-mail to assist them in the performance of their duties. Such access is intended for business use. Violations of this policy may result in disciplinary action, up to and including termination. Violations of federal, state or local laws resulting from the use of city information technologies will result in referral to the appropriate legal authorities. To ensure compliance with this policy, computer and e-mail use may be monitored.

(B) The city strives to maintain a workplace that is free of harassment and sensitive to the diversity of its employees. Therefore, the city prohibits the use of information technologies, such as computers, e-mail and the Internet, in ways that are disruptive, offensive to others, or harmful to morale. For example, the display or transmission of sexually-explicit images, messages and cartoons is not allowed. Other such misuse includes, but is not limited to, ethnic slurs, racial comments, jokes or anything that may be construed as harassment or showing disrespect to others.

(C) Employees should immediately report any violation of this policy to their elected official/department head. Questions concerning these policies should be directed to the employee’s elected official/department head. (Ord. 1498, passed 9-8-14)

§ 39.07 INTERNET ACCESS.

(A) Access to the Internet is provided for business-related purposes. Personal use of such equipment and software shall be limited in frequency and duration, and shall not interfere with an employee’s assigned duties.

(B) The Internet is a worldwide network of computers containing millions of pages of information and many diverse points of view. Due to its global nature, users of the Internet may encounter material that is inappropriate, offensive, and in some instances, illegal. The city cannot control the availability of this information or completely restrict access to it.

(C) Employees may only access the Internet through an approved Internet firewall. Accessing the Internet directly, by modem or other connection device, is strictly prohibited unless such access is approved and installed by system managers designated by the city.

(D) The city will not be responsible for any damages, direct or indirect, arising out of the use of its Internet resources. City employees who violate this policy are subject to disciplinary action, up to and including termination.

(Ord. 1498, passed 9-8-14)

§ 39.08 DOWNLOADING FROM THE INTERNET.

(A) All material downloaded from the Internet or from computers or networks that do not belong to city must be scanned for viruses and other destructive programs before being placed onto the computer system. All employees will be expected to follow the instructions from their elected official/department head for the proper scanning process. Any questions should be referred to the elected official/department head prior to using downloaded material or placing it on the computer system.

(B) Employees are responsible for the material they review and download on the Internet. Violations of this policy are subject to disciplinary action, up to and including termination.

(Ord. 1498, passed 9-8-14)

§ 39.09 ELECTRONIC MAIL (E-MAIL).

(A) Employees should exercise the same care in drafting e-mail, communicating in chat groups and blogs, and posting items to news groups as they would for any other written communication. The city e-mail system is subject to public records laws, and certain e-mails to and from city employees may be deemed public records.

(B) The e-mail system may be monitored when the city deems it necessary to ensure its legitimate business interest in the proper utilization of its property and to ensure that this policy is being followed.

(C) Violations of this policy are subject to disciplinary action, up to and including termination.

(Ord. 1498, passed 9-8-14)

§ 39.10 PROHIBITED USES OF THE INTERNET.

(A) Sending, receiving, displaying, printing or otherwise disseminating material that is fraudulent, harassing, illegal, embarrassing, sexually explicit, obscene, intimidating or defamatory is prohibited. Employees encountering such material should report it to their elected official/department head immediately. Employees are responsible for the material they review and download on the Internet.

(B) Employees may not use city Internet or e-mail resources for commercial or personal advertisements, solicitations, promotions, viruses, political material, or any other unauthorized personal use. City e-mail resources may not be used to forward chain letters. Employees may not disseminate city property or confidential information via the Internet.

(C) Due to export restrictions, programs or files containing encryption technology are not to be placed on the Internet or transmitted in any way outside the United States without prior written authorization from city. Employees must comply with all software licenses, copyrights and all other federal, state and local laws governing intellectual property and online activity.

(D) The city maintains the right to monitor any and all aspects of its computer system, including, but not limited to, monitoring sites employees visit on the Internet, monitoring chat and news groups and blogs, reviewing material downloaded or uploaded by employees, and reviewing e-mail sent and received by employees. Employees do not retain any right to privacy in any documents, messages or images they create, store, send or receive on the computer or the Internet under the Electronic Communications Privacy Act and any other federal, state or local law regarding e-mail and Internet use.

(E) Violations of this policy are subject to disciplinary action, up to and including termination.

(F) Any message or file created, stored and/or sent using the city's computer or communications equipment is city property. Employees should have no expectation of privacy in any message stored, received or sent using city equipment.

(Ord. 1498, passed 9-8-14)

