

TITLE 2

CLASSIFICATION, ADMINISTRATION

AND PERSONNEL

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CHAPTER 2.04

CITY CLASSIFICATION

Sections:

- 2.04.01 Operation as first class city

2.04.01 Operation as first class city The city of Sherwood, Arkansas, shall operate as a city of the first class under the laws of the state of Arkansas.

CHAPTER 2.08

CITY AND WARD BOUNDARIES

Sections:

2.08.01 Ward boundaries

2.08.01 Ward boundaries The City Council adopted new ward boundaries pursuant to Resolution 14-2011 which was passed May 23rd , 2011. (Ord. No. 1902, Sec. 1.)

Ward 1

Beginning at a point on the city limits of Sherwood (as of March 2, 2011) due south of the centerline of S. Fairway Ave. thence north to the centerline of the south end of S. Fairway Dr. thence north along the centerline of S. Fairway Ave. to the intersection with the centerline of Sherwood Ave., thence in a northwesterly direction along the centerline of Sherwood Ave. to the intersection with the centerline of Country Club Road, thence east along the centerline of Country Club Road to a point due south of the property line between 904 County Club Road (904 County Club Road is in Ward 1) and 906 County Club Board (906 County Club road is in Ward 3), thence north to and along the property line between 904 and 906 country Club road to the intersection with a property line that is common to properties along Verona Circle and N. Devon Ave., thence in a northerly direction along this common property line to the intersection with the centerline of an unnamed creek, thence northeasterly along the centerline of the unnamed creek to the intersection with the centerline of Woodruff Creek in Henson Park, thence in a northwesterly direction along the centerline of Woodruff Creek to the intersection with the centerline of Club Road, thence east along the centerline of Club Road to the intersection with Penwood Dr. thence, north along the centerline of Penwood Dr. to the intersection with the centerline of E. Lee Ave. Thence west along the centerline of E. Lee Ave. to the intersection with the centerline of Holiday Dr. thence north along the centerline of Holiday Dr. to the intersection with the centerline of E. Kiehl Ave. (State Highway 176), thence west along the centerline of E. Kiehl Ave. to the intersection with the centerline of Barber St., thence north along the centerline of Barber St. to the intersection with E. Maryland Ave. thence east along the centerline of E. Maryland Ave to the intersection with the centerline of Whitewood Dr., thence in a northerly direction along the centerline of Whitewood Dr., to the intersection with the centerline of E. Woodruff Ave., thence continue in a northerly direction along the centerline of Pecos Dr. to the intersection with the center of Johnson Dr., thence west along the centerline of Johnson Dr. to the intersection with the centerline of Oakbrook Dr., thence in a northerly direction along the centerline of Oakbrook Dr. to the intersection with the centerline of State Highway 107, thence in a westerly direction along the centerline of State Highway 107 to the intersection with centerline of Kellogg Acres Road, thence in a northerly direction along the centerline of Kellogg Acres Road to the intersection with the city limits of Sherwood (as of March 2, 2011), thence in a westerly direction on and along the city limits of Sherwood to the point of beginning.

Ward 2

Beginning at the intersection of the centerline of E. Lee Ave. and the centerline of Bronco Lane, thence in a northeasterly direction along the centerline of E. Lee Ave. to the intersection with the centerline of E. Kiehl Ave., thence east along the centerline of E. Kiehl Ave. to the intersection with the centerline of Witt Dr., thence north along the centerline of Witt Dr. to the intersection with the centerline of Cherrie Ave. thence west along the centerline of Cherrie Ave. to the intersection with the centerline of Summit St., thence north along the centerline of Summit St. to the intersection with the centerline of Barbara Ave., thence east along the centerline of Barbara Ave. to the intersection with Hemphill Road, thence south along the centerline of Hemphill Road to a point due west of the property boundary between 603 Hemphill Road (603 Hemphill Road is in Ward 2) and 605 Hemphill Road (605 Hemphill Road is in Ward 4), thence in an easterly direction to and along the property boundary between 603 Hemphill Road and 605 Hemphill Road, and then continue in an easterly direction to the centerline of the entrance road to the Brushy Cemetery, thence in a southerly direction along the centerline of the entrance road to the Brushy Cemetery to the intersection with the centerline of Hollmore St., thence east along the centerline of Hollmore St. to the eastern end of Hollmore St., thence continue east to the centerline of Brockington Road, thence in a northerly direction along the centerline of Brockington Road to the intersection with the centerline of Gap Creek, thence in a northeasterly direction along the centerline of Gap Creek to the intersection with the city limits of Sherwood (as of March 2, 2011), thence in a easterly direction on and along the city limits of Sherwood to a point on the west right-of-way of US 67/167 that is also on the southern city limit line of Sherwood, thence in a northeasterly direction along the west right-of-way of US Highway 67/167 to the intersection with the centerline of Woodruff Creek, thence in a northwesterly direction along the centerline of Woodruff Creek, north of the sewage treatment ponds, to an unnamed creek that enters Woodruff Creek from the north which at that point is approximately 650 feet east of Palomino Dr., thence in a northwesterly direction along the centerline of the unnamed creek to the intersection with the centerline of Manor Dr., thence west along the centerline of Manor Dr. to the intersection with the centerline of Bronco Dr. thence north along the centerline of Bronco Dr. to the point of beginning.

Ward 3

Beginning at the intersection of the centerline of E. Maryland Ave. and the centerline of Oakbrook Dr., thence in a southerly direction along the centerline of Oakbrook Dr. to the intersection with the centerline of E. Kiehl Ave. (State Highway 176), thence east along the centerline of E. Kiehl Ave. to the intersection with the centerline of an unnamed creek that is approximately 200 feet east of the centerline of Oakbrook R., thence in a southerly direction along the centerline of the unnamed creek to the intersection with the centerline of E. Lee Ave., thence in a westerly direction along the centerline of E. Lee Ave. to the intersection with the centerline of Bronco Lane, thence in a southerly direction along the centerline of Bronco Lane to the intersection with the centerline of Manor Dr., thence east along the centerline of Manor Dr.

to the intersection with the centerline of an unnamed creek that is approximately 150 feet east of Bronco Lane, thence in a southerly direction along the centerline of the unnamed creek to the confluence with Woodruff Creek, thence in a southeasterly direction along the centerline of woodruff Creek, north of the sewage treatment ponds, to the west right-of-way of US 67/167, thence in a southwesterly direction along the west right-of-way of US 67/167 to the intersection with the city limits of Sherwood (as of March 2, 2011), thence westerly and along the city limits of Sherwood to a point due south of the centerline of S. Fairway Ave., thence north to the centerline of the south end of S. Fairway Dr., thence north along the centerline of S. Fairway Ave. to the intersection with the centerline of Sherwood Ave., thence in a northwesterly direction along the centerline of Sherwood Ave. to the intersection with the centerline of County Club Road, thence east along the centerline of County Club Road to a point due south of the property line between 904 Country Club Road (904 County Club Road is Ward 1) and 906 County Club Road (906 County Club Road is in Ward 3), thence north to and along the property line between 904 and 906 County Club Road to the intersection with a property line that is common to properties along Verona Circle and N. Devon Ave., thence in a northerly direction along this common property line to the intersection with the centerline of an unnamed creek, thence northeasterly along the centerline of the unnamed creek to the intersection with the centerline of Woodruff Creek in Henson Park, thence in a northwesterly direction along the centerline of Woodruff Creek to the intersection with the centerline of Club Board, thence east along the centerline of Club Road to the intersection with the centerline of E. Lee Ave., thence west along the centerline of E. Lee Ave. to the intersection with the centerline of Holiday Dr., thence north along the centerline of Holiday Dr. to the intersection with the centerline of E. Kiehl Ave. (State Highway 176), thence west along the centerline of E. Kiehl Ave. to the intersection with the centerline of Barber St. thence north along the centerline of Barber St. to the intersection with E. Maryland Ave. thence east along the centerline of E. Maryland Ave. to the point of beginning.

Ward 4

Beginning at a point on the city limits of Sherwood (as of March 2, 2011) at the intersection of the centerline of Kellogg Acres Road, thence south along the centerline of Kellogg Acres Road to the intersection of the centerline of State Highway 107, thence in an easterly direction along the centerline of State Highway 107 to the intersection with the centerline of Oakbrook Dr., thence in a southerly direction along the centerline of Oakbrook Dr. to the intersection with the centerline of Johnson Dr., thence east along the centerline of Johnson Dr. to the intersection with the centerline of Pecos Dr., thence in a southerly direction along the centerline of Pecos Dr. to the intersection with the centerline of E. Woodruff Ave., thence continue in a southerly direction along the centerline of Whitewood Dr. to the intersection with the centerline of E. Maryland Ave., thence west along the centerline of E. Maryland Ave., to the intersection with the centerline of Oakbrook Dr., thence in a southerly direction along the centerline of Oakbrook Dr. to the intersection with the centerline of E. Kiehl Ave. (State Highway 176), thence east along the centerline of E. Kiehl Ave. to the intersection with the centerline of an unnamed creek that is approximately 200 feet east of the centerline of Oakbrook Dr. thence in a southerly direction along the centerline of the unnamed creek to the intersection with the centerline of E. Lee Ave,

thence in a northeasterly direction along the centerline of E. Lee Ave. to the intersection with the centerline of E. Kiehl Ave., thence east along the centerline of E. Kiehl Ave. to the intersection with the centerline of Witt Dr., thence north along the centerline of Witt Dr. to the intersection with the centerline of Cherrie Ave., thence west along the centerline of Cherrie Ave. to the intersection with the centerline of Summit St., thence north along the centerline of Summit St. to the intersection with the centerline of Barbara Ave., thence east along the centerline of Barbara Ave. to the intersection with Hemphill Road, thence south along the centerline of Hemphill Road to a point due west of the property boundary between 603 Hemphill Road (603 Hemphill Road is in Ward 2) and 605 Hemphill Road (605 Hemphill Road is in Ward 4), thence in an easterly direction to and along the property boundary between 603 Hemphill Road and 605 Hemphill Road, and then continue in an easterly direction to the centerline of the entrance road to the Brush Cemetery, thence in a southerly direction along the centerline of the entrance road to the Brush Cemetery to the intersection with the centerline of Hollmore St., thence east along the centerline of Hollmore St. to the eastern end of Hollmore St. thence continue east to the centerline of Brockington Road, thence in a northerly direction along the centerline of Brockington Road to the intersection with the centerline of Gap Creek, thence in a northeasterly direction along the centerline of Gap Creek to the intersection with the city limits of Sherwood (as of March 2, 2011), thence in a westerly direction on and along the city limits to the point of beginning. Less and except any areas not within the city limits of Sherwood as of March 2, 2011. (Ord. No. 1902, Sec. 1.)

CHAPTER 2.12

SOCIAL SECURITY COVERAGE, RETIREMENT

Sections:

- 2.12.01 Contract
- 2.12.02 Withholding taxes from wages
- 2.12.03 City to match withholding
- 2.12.04 Employee Retirement Plan
- 2.12.05 Police and fire to join L.O.P.F.I.
- 2.12.06 Deferred compensation plan
- 2.12.07 Mayors' deferred compensation plan
- 2.12.08 Non-elected retirees eligible
- 2.12.09 Loans to participants

2.12.01 Contract The Mayor and Clerk/Treasurer are hereby authorized and directed to enter into an agreement with the state for the purpose of obtaining insurance coverage for the employees of the city of Sherwood, Arkansas, under the terms and provisions of the Federal Social Security Act.

2.12.02 Withholding taxes from wages Each employee's insurance contribution shall be deducted from his salary check in accordance with the terms and provisions of the Social Security Act.

2.12.03 City to match withholding There is hereby appropriated from the general fund of the city the sums of money necessary to pay the city's share of the insurance tax in accordance with the terms and provisions of the Social Security Act.

2.12.04 Employee retirement plan

A.

1. Establishment, Name and Purpose The 457(b) plan document, attached hereto as Exhibit A, and incorporated herein by reference word for word, is approved and adopted as the plan meeting the directives of Ord. No. 1875. The schedule of the plan commencement date shall be the date as set forth within the plan document. (Ord. No. 1881, Secs. 1-2.)
2. Eligible employee Full-time or part-time employees of the employer who are eligible for benefits offered by the employer. Specifically excluded from the definition of "eligible employee" are elected officials of the employer; employees eligible for the Arkansas Local Police and Fire Retirement Service (aka LOPFI), Arkansas Public Employees Retirement System (aka APERS), the Arkansas District Judge Retirement System (aka ADJRS) or the Arkansas Judicial Retirement System; independent contractors; and leased employees. Solely for purposes of making deferrals and rollover contributions to this plan, effect October 1, 2012, the employees who are specifically excluded pursuant to the preceding sentence (except for independent contractors and leased employees) shall be eligible employees, but such employees shall not be treated as eligible employees for purposes of Section 4.03 (Mandatory Contributions), 4.04 (Automatic Elections), 4.06 (Matching contributions) or 4.07 (Non-elective Contributions). (Ord. No. 1948, Sec. 1.)
3. This Retirement Plan is being established and will be maintained for the exclusive benefit established and will be maintained for the exclusive benefit of the eligible employees and their beneficiaries. No part of the contributions of the city to this Retirement Plan will ever revert to it or be used or diverted to purposes other than the exclusive benefit of its employees and their beneficiaries except as set forth in the Retirement Plan or hereinafter. (Ord. No. 811, Sec. 1, as amended by Ord. No. 833, Sec. 1.)

B. Administration

1. Retirement Board There is hereby created and established the city of Sherwood Municipal Employees Retirement Board (“Retirement Board”) which under the provisions of this Section and the direction of the City Council shall administer the Retirement Plan created by this ordinance. The Retirement Board shall consist of one alderman, two citizens with either financial or banking backgrounds having either their personal residence or principal place of business within the city of Sherwood, one employee of the city of Sherwood having as their principal duty the city’s finances, and one employee of the city of Sherwood. The members of the Retirement Board shall be appointed by the Mayor and shall be confirmed by a majority vote of the City Council. The Retirement Board members shall serve the following terms:

Alderman	2 years
Citizens with financial background	4 & 5 years respectively
Financial employee	3 years
Employee	1 year

Vacancies on the Board shall be filled in the same manner as original appointment.

2. Administration, management and control The Retirement Board shall serve as administrator of the Retirement Plan and shall have such powers as may be necessary to discharge its duties of management, direction and control including but not by way of limitation the following powers of duties:
 - a. To construe and interpret the Retirement Plan, decide all questions of eligibility and determine the amount, manner and time of payment of any benefits hereunder;
 - b. To make a determination as to the right of any person to a benefit and to afford any person dissatisfied with such determination the right to a hearing thereon;
 - c. To receive from the city and from members such information as shall be necessary for the proper administration of the Retirement Plan;

- d. To prepare and distribute in such manner as the Board determines to be appropriate summary plan descriptions and information explaining the Retirement Plan. Provided however, that in the exercise of its powers, the Retirement Board shall have no power to add to, subtract from or modify any of the terms of the Retirement Plan, nor to change, or add to any benefits provided by the Retirement Plan, nor to waive or fail to apply any requirements or eligibility for a retirement benefit under the Retirement Plan without the approval of the City Council. (Ord. No. 1881, Sec. 3.)
3. Employment of Actuary and Other Professionals The Board, with the approval of the City Council, shall employ an actuary, who shall be the technical advisor to the Board on matters relating to the operations of the Retirement Plan, an attorney who shall be the legal advisor to the Board on matters relating to the operation of the Retirement Plan, a certified public accountant who shall conduct an annual audit of the financial matters relative to the Retirement Plan as set forth in the Retirement Plan and may engage such other technical service or employ such other persons as may be necessary to transact the business of the Retirement Plan.
4. Records and Accounts The Board shall keep at all time correct detailed records and accounts of the Retirement Plan and all transactions and matters relating to its administration.
5. Annual Report and Audit As soon as practical after the close of each calendar year, the Board shall transmit to the City Council a full written

report setting forth the financial condition of the Retirement Plan and its operation for the preceding calendar year. The Board shall have made an annual audit of the Retirement Plan by a competent auditor selected by the Board and confirmed by the City Council.

6. Authorization of benefit payments The Board shall issue directions to the Trustee concerning all benefits which are to be paid from the Retirement Plan. The Board shall keep on file in such manner as it deems convenient or proper, all Trustee reports.
7. Payment of expenses All expenses incurred incident to the administration, termination or protection of the Retirement Plan, including but not limited to actuarial, legal, accounting and Trustee's fees shall be paid by the Trustee from the Retirement Plan fund upon written direction by the Retirement Board.
8. Conflict of interest Except as provided herein, no member or employee of the Retirement Board shall have any personal interest, direct or indirect, in the making of any investment from the Retirement Fund, or in the gains or profits accruing therefrom. Nor shall any member or employee of the Retirement Board, directly or indirectly, for himself or as an agent or partner of others, borrow any retirement funds or deposits, or in any manner use the same except to make such current and necessary payments as are authorized by the Retirement Board. (Ord. No. 811, Sec. 2.)

C. Miscellaneous

1. Non-alienation of benefits Except with respect to any indebtedness owing to the city (for which the city is given a lien on the debtor's distributive share of the Retirement Fund), any option, benefit or other right accrued or accruing to any person under the provisions of this ordinance shall not be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, charge, garnishment, execution or levy of any kind, either voluntary or involuntary, prior to actually being received by the person entitled to the benefits under the terms of the Retirement Plan. The Retirement Plan fund shall not in any manner be liable for the debts, contracts, liabilities, engagements, reports of any persons entitled to the benefits hereunder.
2. Disclaimer of liability Neither the city, the Trustee nor the Retirement Board guarantees the Retirement Plan fund in any manner against loss of any description and they shall not be liable for any act or failure to act

which is made in good faith pursuant to the provisions of the Retirement Plan. The city shall not be responsible for any act or failure to act of the Retirement Board of the Trustee. The Trustee shall not be liable for any act or failure to act of the city or the Retirement Board. The Retirement Board shall not be responsible for any act or failure to act of the city or the Trustee.

3. Indemnification of Retirement Board The Retirement Board shall be indemnified by the Trustee from the assets of the Trust Fund against liability arising by reason of any act or failure to act made in good faith pursuant to the provisions of the Retirement Plan, including expenses reasonably incurred in the defense of any claim relating thereto.
4. Amendments, Right to Amend The city, through its City Council, reserves the right to make from time to time any amendment or amendments to the Retirement Plan which shall not cause any part of the Retirement Plan fund to be used for or diverted to any purposes other than for the exclusive benefit of employees included in the Retirement Plan. (Ord. No. 811, Sec. 3.)

- D. A retired elected city official is to have health, dental and/or life insurance paid by the city. The retired official may, at his option, request that the city reimburse him directly for health, dental and/or life insurance which the official may procure independent of the city. This reimbursement shall be in lieu of the insurance premiums paid by the city for said official and can not exceed the projected cost to the city for providing such insurance. (Ord. No. 840, Sec. 1.)
- E. Any person that has or will become an Alderman, City Clerk, Mayor, District Judge or City Attorney who has or will have served twelve (12) years in their office or offices for the city of Sherwood shall at the end of said service, be entitled to a paid health care premium or the equivalent not to exceed \$250.00 per month. A minimum age of fifty-five (55) years shall be required in addition to the service requirement above defined. It shall be the responsibility of the official to notify the City Clerk in writing when they become eligible. This change shall not be retroactive in effect to any existing retired elected officials that qualified under any previous ordinance. (Ord. No. 2001, Sec. 1.)

It is hereby authorized to compensate an elected official equivalent to health insurance premiums once they become ineligible to remain on the city of Sherwood Health Care Policy as a result of becoming eligible for Medicare. (Ord. No. 1413, Sec. 1.)

- F. Distribution The city of Sherwood, Arkansas, Municipal Employees' Retirement Plan is hereby amended, effective for distributions on or after September 1, 2005 as follows:

Notwithstanding any other provisions in this Plan, except as otherwise required by the code, if the participant's vested account balance is greater than \$1,000, no distributions shall be made from the Plan without the consent of the participant. If the participant's vested account balance is greater than \$5,000, no distribution shall be made without the consent of the participant. In determining whether the participant's vested account balance exceeds \$1,000, the participant's rollover account, if any, shall be taken into account. (Ord. No. 1672, Sec. 1.)

- G. The employer, by action of its Retirement Board and its City Council, does hereby amend the Plan to suspend further benefit accruals under the terms of the Plan effective December 31, 2010. Notwithstanding any Plan provision to the contrary, all participants with accrued benefits as of December 31, 2010, shall be fully vested in such accrued benefit. (Ord. No. 1882, Sec. 1.)

2.12.05 Police and fire to join L.O.P.F.I

- A. The Policemen's Pension and Relief Fund established by the city of Sherwood is hereby abolished.
- B. Any money placed in that fund from fines or forfeitures collected by the Sherwood Police Department shall be returned to the General Fund with the disbursement of said funds to be for the benefit of the Sherwood Police Department.
- C. Any other monies placed in the fund from any source or any additional interest drawn on the present fund shall be placed in the General Fund of the city of Sherwood with directions that said money be applied to the retirement plan of the Sherwood Police Department. (Ord. No. 816, Sec. 1-3.)

2.12.06 Deferred compensation plan

- A. The city of Sherwood, Arkansas, adopts the Plan and the Trust Agreement ("Trust") for the Plan for its employees.
- B. The city of Sherwood, Arkansas, acknowledges that the Executive Committee of the AML will serve as the Board of Trustees of the AML defined contribution and Deferred compensation Plan ("Trustees") and shall only be responsible for other employee benefit plans maintained by the city of Sherwood, Arkansas.
- C. The city of Sherwood, Arkansas, is authorized to sign all documents necessary to adopt the Plan and by so signing, be bound by the terms of the Plan as stated in the Adoption Agreement and Plan other Plan documents. The city of Sherwood,

Arkansas, reserves the right to amend its elections under the Adoption Agreement, so long as the amendment is not inconsistent with the Plan or the Internal Revenue code or other applicable law and is approved by the Trustees of the Plan.

D.

1. The city of Sherwood, Arkansas, agrees that it shall abide by the terms of the Plan and the Trust, including amendments to the Plan and the Trust made by the Trustees of the Plan, all investments, administrative, and other services agreements of the Plan and the Trust, and all applicable provisions of the Internal Revenue Code and other applicable law.
2. The city of Sherwood, Arkansas, accepts the administrative services to be provided by AML and any services provided by an outside service provider as selected by the Trustees. The city of Sherwood, Arkansas, acknowledges that fees will be imposed with respect to the services provided and that such fees may be deducted from the participants' accounts.

E.

1. The city of Sherwood, Arkansas, may terminate its participation in the Plan, including but not limited to, its contribution requirements, by way of:
 - a. An ordinance of the City Council terminating its participation in the Plan.
 - b. The ordinance must specify when the participation will end.

The Trustees shall determine whether the ordinance complies with the terms of the Plan, and all applicable federal and state laws. The Trustees shall also determine an appropriate effective date, and shall provide appropriate forms to terminate ongoing participation. However, distributions under the Plan of existing accounts to participants will be made in accordance with the Plan.

2. The city of Sherwood, Arkansas, acknowledges that the Plan contains provisions for involuntary Plan termination.

- F. The city of Sherwood, Arkansas, acknowledges that all assets held in connection with the Plan, including all contributions to the Plan, all property and rights acquired or purchased by such amounts and all income attributable to such amounts, property or rights shall be held in trust for the exclusive benefit of

participants and their beneficiaries under the Plan. No part of the assets and income of the Plan shall be used for, or diverted to, purposes other than for the exclusive benefit of participants and their beneficiaries and for defraying, reasonable expenses of the Plan. All amounts of compensation deferred pursuant to the Plan, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, are held as part of the Plan. All contributions to the Plan shall be transferred to the Trustees to be held, managed, invested and distributed as part of the Trust Fund in accordance with the provisions of the Plan. All contributions to the Plan must be transferred by the participating employer to the Trust Fund. All benefits under the Plan shall be distributed solely from the Trust fund pursuant to the Plan. (Ord. No. 1546, Secs. 1-6.)

2.12.07 Mayor's deferred compensation plan All providers authorized under the city of Sherwood's Deferred Compensation Plan(I.R.S. Section 457) must maintain local representation for service to employees.

All providers authorized under the city of Sherwood's Deferred Compensation Plan (I.R.S. Section 457) must allow for full and unrestricted transfer of funds between other authorized providers within the plan. No fees, or other penalties, for transfer of funds may be assessed for any reason.

All providers authorized under the city of Sherwood's Deferred Compensation Plan (I.R.S. Section 457) must allow for full and unrestricted transfer of funds either as a taxable distribution to the employee or another tax-deferred fund upon the employee's separation with the city of Sherwood. No fees, or other penalties, for transfer of funds may be assessed for any reason.

Employees who have current investments with a provider that is no longer authorized because they have declined to comply with this plan amendment may continue to have those investments payroll deducted. Employees who have current investments with a provider that is no longer authorized because they have declined to comply with this plan amendment may also change funds within that provider or increase or decrease their contribution levels.

Employees who have current investments with a non-authorized provider should be aware that they may not be allowed to transfer money to an authorized plan provider, if the non-authorized provider does not permit the transfer under their specific provider rules. Providers that are no longer authorized due to their decision not to comply with this plan amendment may not accept new investments for employees.

The plan consists of the provisions set forth in this document, and is applicable to each public employee who elects to participate in the plan. The plan is effective as to each such public employee upon the date he becomes a participant by entering into and filing with the administrator the participation agreement referred to herein.

Article I
Definitions

The following terms shall, for purposes of this plan, have the meaning set forth below:

Administrator means the organization selected by the plan sponsor to administer the plan.

Beneficiary means the person properly designated by a participant to receive the participant's benefit under this plan.

Compensation means all payments made by the plan sponsor as remuneration for services rendered, including salaries, fees, etc.

Deferred compensation means the amount of compensation that a participant elects to defer into the plan under the participation agreement.

Deferred compensation account means the separate bookkeeping account maintained by the administrator within the plan for a participant for amounts of compensation deferred into the plan.

Eligible rollover account means the separate bookkeeping account maintained by the administrator within the plan for a participant for amounts of eligible rollover distributions as defined below.

Eligible retirement plan means an eligible retirement plan as defined in (D).

Includible compensation means, for the purposes of the limitations on deferrals, compensation for services performed for the plan sponsor which is currently includible in gross income after giving effect to all provisions of the IRC. The amount of includible compensation shall be determined without regard to any community property laws.

Independent contractor means any person receiving any type of compensation from the plan sponsor or any of its agencies, departments, subdivision or instrumentalities for which services are rendered pursuant to one or more written or oral contracts, if such a person is not an employee.

IRC means the Internal Revenue Code of 1986, as now in effect or as hereafter amended.

Normal retirement age means the age specified in writing by the participant. If the plan sponsor has a plan sponsor's retirement system, the normal retirement age specified by the participant must be an age at which the participant is eligible to retire pursuant to the plan

sponsor's basic pension plan, by virtue of age, length of service, or both, without consent of the plan sponsor and with the right to receive immediate retirement benefits without actuarial or similar reduction because of retirement before some later specified age. If the plan sponsor has no plan sponsor's basic pension plan, the normal retirement age specified by the participant must be at least 60 years. In no event shall normal retirement age be later than age 70 ½

Participant means any public employee who is or has been eligible to defer compensation under the plan and who participates under this plan by signing the participation agreement and who retains rights to benefits under this plan.

Participation agreement means the application to the administrator to participate in the plan.

Plan means the Deferred Compensation Plan for Public Employees as set forth in this document and as it may be amended from time to time.

Plan sponsor means the above referenced city or any of its agencies, departments, subdivisions or instrumentalities for which services are performed by a participant.

Plan year means the calendar year in which the plan becomes effective, and each succeeding calendar year during the existence of this plan.

Public employee means any person who receives any type of compensation from the plan sponsor for which services are rendered (including, but not limited to, elected or appointed officials, salaried employees, and independent contractors).

Severance from employment means the severance of a participant's employment with the plan sponsor, as defined by IRC 457, or on account of the participant's death or retirement. An independent contractor shall not be considered severed from employment with the plan sponsor and shall not receive any benefits hereunder unless:

1. at least 12 months have expired since the date on which the last contract, pursuant to which the independent contractor provided any services to the plan sponsor, was terminated, and
2. the independent contractor has performed no services for the plan sponsor, during the 12 month period referred to herein either as an independent contractor or employee.

Unforeseeable emergency means severe financial hardship to the participant resulting from a sudden and unexpected illness or accident of the participant or dependent (as defined in

IRC Section 152) of the participant, loss of the participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant.

When ever used herein, the masculine gender shall include the feminine and the singular shall include the plural unless the provisions of the plan specifically require a different construction. (Ord. No. 1665, Art. I.)

Article II

Election to defer compensation

- A. The participant may elect to participate by agreeing to the participation agreement and consenting to a reduction of salary by the deferral amount specified in the participation agreement. The amount of deferred compensation must equal at least \$20 per month.
- B. The plan sponsor shall commence the reduction no earlier than the first pay period commencing during the first month after the date on which the participation agreement is filed with the administrator.
- C.
 - 1. The participant may revoke his election to participate and may amend the amount of deferred compensation to be deferred by filing with the administrator a revocation or amendment on a form and in the procedural manner approved by the administrator. In addition, the participant may amend his investment specification in the procedural manner approved by the administrator. Any amendment which increases the amount of deferred compensation for any pay period shall be effective only if an agreement providing for such an additional amount is entered into before the beginning of the month in which the pay period commences. Any revocation or amendment of the deferred compensation shall be effective prospectively only. Any change in the participant's investment specification by the participant, whether it applies to amounts previously deferred or amounts to be deferred in the future, shall be effective prospectively only and shall be effective on a date consistent with the rules and specifications of the investment carrier.
 - 2. After the death of the participant, his beneficiary shall have the right to amend the participant's, or the beneficiary's own investment specification by filing with the administrator an amendment on a form and in the procedural manner approved by the administrator. Any change in an investment specification by a beneficiary shall be effective on a date consistent with the rules and specifications of the investment carrier.

- D. Except as provided in (E) and (F), the maximum deferred amount under the plan for the participant's taxable year shall not exceed the lesser of
1. the maximum dollar amount under IRC Section 457(b)(2)(A) as adjusted for cost of living adjustments described in IRC Section 457(e)(15) or
 2. 100% of the participant's includible compensation as provided in IRC Section 457(b)(2)(B).
- E. The maximum deferral amount described in (D) under the plan for the participant's taxable year is increased for a participant who has attained age 50 or over by the end of the taxable year. The additional amount permitted under this section is the lesser of
1. the applicable dollar amount set forth in IRC Section 414(v)(2)(B) or
 2. the participant's compensation for the taxable year reduced by any other elective deferrals of the participant for the taxable year. This section shall not be applicable for any taxable year in which (F) applies.
- F. For one or more the participant's last three taxable years ending before the attainment of normal retirement age under the plan, the maximum deferral shall be the lesser of
1. twice the applicable dollar amount set forth in IRC Section 457(b)(2)(A);
or
 2. the limitation established for the taxable year under (D), plus the limitation established for purposes of (D) for each of the prior taxable years beginning after December 31, 1978, during which the participant was eligible to participate less the amount of compensation deferred under the plan for each of such prior taxable years.
- G. Notwithstanding the preceding provisions of Article II, a participant who is entitled to reemployment pursuant to the terms of the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) may defer an additional amount under the plan as provided in that Act for the years of his or her service in the uniformed services (as defined in USERRA). Any such deferrals will not be subject to the limits set forth above in the year in which deferred, but will be subject to the limits for the year to which such deferrals relate. (Ord. No. 1665, Art. II.)

Article III**Plan sponsor contributions**

The plan sponsor may contribute to the plan for participants. Plan sponsor contributions shall vest at the time such contributions are made. For purposes of plans administering Sections II (E), (F), and (G), plan sponsor contributions shall apply toward the maximum deferral limits in the plan year that such contributions are made. (Ord. No. 1665, Art. III.)

Article IV**Plan transfers and eligible distribution rollovers**

- A. If a participant terminates employment with the plan sponsor and accepts employment with another employer which maintains an eligible deferred compensation plan (as defined in IRC Section 457) and the new employer's plan accepts transfers, the participant may transfer his account balance from the plan to the plan maintained by the new employer.
- B. If the employer offers an eligible deferred compensation plan (as defined in IRC Section 457) other than the plan, and such other plan accepts transfers, the participant may transfer the account balance from the plan to the other plan. The participant's election to transfer shall be filed with the administrator.
- C. Transfers from other eligible deferred compensation plans (as defined in IRC Section 457) to the plan will be accepted at the participant's request if such transfers are in cash or non-annuity products currently offered under the plan. Any such transferred amount shall not be subject to the limitations of Article II (E), provided however, that the actual amount deferred during the calendar year under both plans shall be taken into account in calculating the deferral limitation for that year. For purposes of determining the limitation set forth in Article II (G), years of eligibility to participate in the prior plan and deferrals under that plan shall be taken into account.
- D. The plan may receive an eligible rollover distribution on behalf of a participant from an eligible retirement plan provided
 - 1. the eligible rollover distribution is made entirely in the form of U.S. dollars, and
 - 2. the participant demonstrates to the administrator's satisfaction that the amount is a qualifying eligible rollover distribution under IRC Section 402(c)(4), 403(a)(4) or 408(d)(3).

- E. Subject to Article VIII, a participant may elect at the time and in the manner prescribed by the administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the participant, provided the participant presents to the satisfaction of the administrator a letter of acceptance or other written acknowledgment from the accepting plan that is an eligible retirement plan qualified to accept the eligible rollover distribution.

- F. A participant may use all or a portion of an account balance as a direct trustee-to-trustee transfer to a retirement system to purchase permissive service credit or for the repayment of service credits, provided that
 - 1. the retirement system permits such a transfer, and
 - 2. the participant demonstrates to the administrator's satisfaction that the transfer is to a defined benefit governmental plan (as defined in IRC Section 414(d)) and the transfer is permissible for the purchase of service credit (as defined in Code Section 415(n)(3)(A)) or for the repayment of service credits permissible by IRC Section 415(k)(3). (Ord. No. 1665, Art IV.)

Article V
Designation of beneficiary

- A. The participant shall have the right to file, with the administrator, a written beneficiary or change of beneficiary form designating the person or persons who shall receive the benefits payable under the plan in the event of the participant's death. The form for this purpose shall be provided by the administrator and will have no effect until it is signed, filed with the administrator by the participant, and accepted by the administrator prior to the participant's death. If the participant dies without having a beneficiary form on file, the benefits will be paid to the participant's estate.

- B. The participant accepts and acknowledges that he has the burden for executing and filing with the administrator prior to the participant's death a proper beneficiary designation form. (Ord. No. 1665, Art. V.)

Article VI
Accounts and reports

- A. The plan sponsor shall remit deferred compensation amounts to the administrator or its designated agent. The administrator shall have no duty to determine

whether the funds paid to it by the plan sponsor are correct, nor to collect or enforce such payment. For convenience and to facilitate an orderly administration of the plan, the administrator shall maintain a deferred compensation account with respect to each participant. A written report of the status of the participant's deferred compensation account shall be furnished at least annually to the participant.

- B. The participant or an eligible retirement plan shall remit eligible rollover distribution amounts to the administrator or his designated agent. The administrator shall maintain an eligible rollover account with respect to each participant's eligible distribution amounts. A written report of the status of the participant's eligible rollover account shall be furnished to the participant.
- C. The administrator shall file with the plan sponsor a written report of the assets of the plan, a schedule of all receipts and disbursements, and a report of all material transactions of the plan during the preceding year at least annually.
- D. The administrator's records shall be open to inspection during normal business hours by the plan sponsor or its designated representatives.
- E. All reports to the participant shall be based on fair market value as of the reporting date. (Ord. No. 1665, Art. VI.)

Article VII

Investment of deferred amount

- A. Deferred compensation and eligible rollover distribution amounts shall be delivered by the plan sponsor to the administrator or its designated agent for investment as designated by the plan sponsor.
- B. The plan sponsor shall use the participant's or beneficiary's investment specifications to determine the value of any deferred compensation account and/or eligible rollover account maintained with respect to the participant as if the deferred amounts had been invested according to such specifications; provided, however, that only upon approval from the plan sponsor and administrator may a participant allocate an amount greater than 25% of the total deferred amount of the participant to a life insurance option.
- C. All interest, dividends, charges for premiums and administrative expenses, and changes in value due to market fluctuations applicable to each participant's deferred account shall be credited or debited to the account as they occur.

- D. All assets of the plan, including all deferred compensation and eligible rollover distribution amounts, property and rights purchased with such amounts, and all income attributable to such amounts, property or rights, shall (until made available to the participant or beneficiary) be held in a trust, custodial account or annuity contract described in IRC Section 457(g) for the exclusive benefit of the participants and their beneficiaries. (Ord. No. 1665, Art. VII.)

Article VIII

Benefits

- A. Commencement of Distributions: Except for unforeseeable emergency withdrawals under Art. VIII(D) and voluntary in-service distribution withdrawals under VIII(E), distributions from the plan may not be made to a participant earlier than
1. the calendar year in which the participant attains age 70 ½, or
 2. the calendar year in which there is a severance from employment by the participant. All irrevocable elections of a benefit commencement date made by participants or beneficiaries prior to January 1, 2002, and defaulted distributions (other than a defaulted distribution to an annuity option) may be voided at the election of the participant or beneficiary.
- B. Mode of Payment: Benefits shall be paid in accordance with the payment option elected by the participant. Payment, method of payment, and settlement options are available as provided by each of the available investment specifications. The participant shall elect the mode of payment based upon the options then available. A participant who has chosen a payment option, other than an annuity option, shall have the ability to change his payment option. Administrative charge or restrictions may be applicable as determined by the plan sponsor and the administrator. Distributions to a participant must comply with IRC Section 401(a)(9) required minimum distribution rules and must begin no later than April 1 of the year following the calendar year in which the participant attains age 70 ½ or severs employment, whichever is later. If the participant fails to elect a payment option that meets the required minimum distribution rules of IRC Section 401(a)(9), then the administrator will initiate such a distribution.
- C. Payments to beneficiary: Distributions to a beneficiary must comply with IRC 401(a)(9). If the participant dies while employed with the plan sponsor, or if the participant dies before the benefits to which he is entitled under this plan have been exhausted, then the benefit payable under this plan shall be paid to his designated beneficiary. The beneficiary shall have the right to elect the time and

mode of payment of such benefits, subject to the limitations set forth in this plan. Such election as to the time of payment (distribution commencement date) shall be filed by the beneficiary not later than ninety (90) days following the participant's death. Failure to file an election as to the form of payment may result in the administrator making a lump sum payment to the beneficiary.

1. If a participant dies on or after the required minimum distribution date, payments shall continue to be paid to the beneficiary at least as rapidly as under the method of distribution in effect at the time of the participant's death.
 2. If a participant dies before the required minimum distribution date, payments to a beneficiary must comply with one of the following requirements:
 - a. The entire account value must be distributed by the end of the calendar year which contains the fifty anniversary of the participant's death, or
 - b. If the beneficiary is a person other than the participant's spouse, distribution of the account must begin on or before December 31 of the calendar year following the participant's death, and the entire account must be paid over a period not extending beyond the life expectancy of the beneficiary, or
 - c. If the beneficiary is the participant's surviving spouse, distribution of the account may be delayed until December 31 of the calendar year in which the participant would have attained age 70 ½ . The account must then be paid over a period not extending beyond the life expectancy of the spouse beneficiary.
 - d. If the beneficiary is not a person, such as a trust or an estate, it must be distributed according to the five-year rules in (a) above.
 - e. If the surviving spouse dies after the participant but before distributions have begun, benefits to the beneficiary of the spouse must be paid according to (a) or (b) above. The date of death of the spouse shall be substituted for the date of death of the participant.
- D. Unforeseeable emergency: Notwithstanding any other provisions herein, in the event of an unforeseeable emergency, a participant may request that benefits be

paid to him at any time. Such request shall be subject to any limitations specified by the investment carrier. If the application for payment is approved by the plan sponsor or its designee, payments shall be effected within 45 days of such approval. Benefits to be paid shall be limited strictly to the amount necessary to meet the unforeseeable emergency constituting a severe financial hardship to the extent such unforeseeable emergency is not relieved:

1. through reimbursement or compensation by insurance or otherwise;
2. by liquidation of the participant's assets, to the extent the liquidation of such assets would not itself cause a severe financial hardship;
3. by cessation of deferrals under the plan.

Foreseeable personal expenditures normally budgetable, such as a down payment on a home, the purchase of an automobile, college or other educational expenses, etc., will not constitute an unforeseeable emergency. The decision of the plan sponsor or its designee concerning the payment of benefits under this section shall be final.

E. Voluntary in-service distribution: A participant who is an active employee of an eligible employer shall receive a distribution of the total amount payable to the participant under the plan if the following requirements are met:

1. the total amount payable to a participant under the plan does not exceed \$5,000 (or the dollar limit under IRC Section 411(a)(11), if greater),
2. the participant has not previously received an in-service distribution of the total amount payable to the participant under the plan,
3. no amount has been deferred under the plan with respect to the participant during the two-year period ending on the date of the in-service distribution; and
4. the participant elects to receive the distribution.
(Ord. No. 1665, Art. VIII.)

Article IX
Administration of plan

A. The plan sponsor may at any time amend, modify or terminate the plan without the consent of the participant (or any beneficiary there), provided, however, that

the assets of the plan shall be held for the exclusive benefit of participants and beneficiaries at all times. All amendments shall become effective forty-five (45) days after the issuance of notice of the amendments by the administrator to the plan sponsor. No amendments shall deprive the participant of any of the benefits to which he is entitled under this plan with respect to deferred amounts credited to his account prior to the effective date of the amendment.

If the plan is curtailed, terminated, or the acceptance of additional deferred amounts are suspended permanently, the administrator shall nonetheless be responsible for the supervision of the payment of benefits resulting from amounts deferred prior to the amendment, modification, or termination in accordance with Article VIII hereof.

- B. Any companies that may issue any policies, contracts, or other forms of investment media used by the plan sponsor or specified by the participant, are not parties to this plan and such companies shall have no responsibility or accountability to the participant or his beneficiary with regard to the operation of this plan.
- C. Participation in this plan by a public employee shall not be construed to give a contract of employment to the participant or to alter or amend an existing employment contract of the participant, nor shall participation in this plan be construed as affording to the participant any representation or guarantee regarding his continued employment.
- D. The plan sponsor and the administrator do not represent or guarantee that any particular federal or state income, payroll, personal property, or other tax consequence will occur because of the participant's participation in this plan. The participant should consult with his own representative regarding all questions of federal and state income, payroll, personal property, or other tax consequences arising from participation in this plan.
- E. The administrator shall have the power to appoint agents to act for and in the administration of this plan and to select depositories for the assets of this plan.
- F. The laws of the state of the plan sponsor shall apply in determining the construction and validity of this plan.
- G. The rights of the participant under this plan shall not be subject to the rights of creditors of the participant or any beneficiary, and shall be exempt from execution, attachment, prior assignment, or any other judicial relief or order for the benefit of creditors or other third persons.

- H. Neither the participant nor his beneficiary nor any other designee shall have any right o commute, sell, assign, pledge, encumber, transfer, or otherwise convey the right to receive any payments hereunder which payments and right thereto are expressly declared to be non-assignable and non-transferable.
- I. This plan and any properly adopted amendment or modification shall constitute the total agreement or contract between the plan sponsor and the participant regarding the plan. No oral statement regarding the plan may be relied upon by the participant.
- J. This plan and any properly adopted amendment or modification shall be binding on the parties hereto and their respective heirs, administrators, trustee, successors, and assignees and on all beneficiaries of the participant.
- K. This plan, and any properly adopted amendments, shall constitute the total agreement or contract between the plan sponsor and the participant regarding the plan. No oral statement to the contrary regarding the plan may be relied upon by the participant. (Ord. No. 1665, Art. IX.)

Article X

Notice to all participants to read these provision providing broad powers and absolute safeguards to the plan sponsor

- A. The plan sponsor, the administrator, or their respective agents shall be authorized to resolve any questions of act necessary to decide the participant's right under this plan and such decision shall be binding on the participant and any beneficiary thereof, provided, however, that assets of the plan shall be held for the exclusive benefit of participants and beneficiaries at all times.
- B. The plan sponsor, the administrator, or their respective agents shall be authorized to construe the plan and to resolve any ambiguity in the plan.
- C. The participant specifically agrees not to seek recovery against the plan sponsor, the administrator or any other employee, contractee, or agent of the plan sponsor or administrator for any loss sustained by the participant or his beneficiary, for the non-performance of their duties, negligence, or any other misconduct of the above named persons except that this paragraph shall not excuse fraud or wrongful taking by any person.
- D. The plan sponsor, the administrator, or their respective agent, if in doubt concerning the correctness of their action in making a payment of a benefit, may suspend the payment until satisfied as to the correctness of the payment or the

identity of the person to receive the payment or allow the filing in any state court of competent jurisdiction, a suit in such form as they consider appropriate for a legal determination of the benefits to be paid and the persons to receive them. The plan sponsor shall comply with the final orders of the court in any such suit and the participant, for himself and his beneficiary, consents to be bound thereby insofar as it affect the benefits payable under this plan or the method or manner of payment.

- E. The plan sponsor, the administrator, and their respective agents are hereby held harmless from all court costs and all claims for the attorney's fees arising from any action brought by the participant or any beneficiary thereof under this plan or to enforce his rights under this plan, including any amendment, modification or termination hereof.
- F. The administrator shall not be required to participate in any litigation concerning the plan except upon written demand from the plan sponsor. The administrator may compromise, adjust or affect settlement of litigation when specifically instructed to do so by the plan sponsor.
- G. Notwithstanding any contrary provision of the plan, including any annuity contract issued under the plan, in accordance with Section 457(g) of the IRC, all amounts of compensation deferred pursuant to the plan, all property and rights purchased with such amounts, and all income attributable to such account, property, or rights shall be held for the exclusive benefit of participants and beneficiaries under the plan and shall be held in a trust, in an annuity contract, as defined in 401(g) of the IRC, or in one or more custodial accounts. For purposes of this paragraph:
 - 1. a trust must be established under the plan pursuant to a written agreement that constitutes a valid trust under the law of state in which the plan sponsor is located.
 - 2. an annuity contract shall be issued by an insurance company qualified to do business in the state where the contract was issued and may not include any life, health or accident, property casualty to liability insurance contract, and
 - 3. the custodian of any custodial account created pursuant to this plan must be a bank, as described in Section 408(n) of the IRC, or a person who meets the non-bank trustee requirements of paragraphs (2)-(6) of Section 1.408-2(e) of the Income Tax Regulations relating to the use of non-bank trustees.

All amounts of compensation deferred under the plan shall be transferred to a trust, to an annuity contract described in Section 401(f) of the IRC, or to a custodial account described in Section 401(f) of the IRC, within a period that is not longer than is reasonable for proper administration of the accounts of participants. To comply with this requirement, all amounts of compensation deferred under the plan shall be transferred to such a trust, annuity contract, or custodial account not later than 15 business days after the end of the month in which the compensation would otherwise have been paid to the employee. The administrator shall be the agent of the plan sponsor for purposes of providing direction to the trustee, issuer of the annuity contract, or custodian from time to time as to the investment of the funds held for the participants and beneficiaries in the investment vehicle (trust, custodial account or annuity contract), the transfer of assets to or from the investment vehicle and all other matters. The plan sponsor agrees to hold all plan assets in a trust, custodial account or annuity contract pursuant to the requirements of the IRC. (Ord. No. 1665, Art. X.)

Article XI

Prior plan If the plan sponsor has already accepted the deferred compensation program and adopted an eligible deferred compensation plan, as defined by IRC Section 457, under such program (the Prior Plan), then the plan sponsor intends that this plan shall amend and restate the prior plan. In such event, this plan shall apply to all participants in the prior plan on the effective date hereof, and also to each public employee who elects to participate in this plan on and after the effective date hereof. (Ord. No. 1665, Art. XI.)

Article XII

Effective date This plan shall be effective as of January 1, 2002. (Ord. No.1665, Art.XII)

2.12.08 Non-elected retirees eligible

- A. The Arkansas State Legislature recently passed Act 241 of 2001, permitting municipalities to provide municipal retirees under age fifty-five (55) or with less than twenty (20) years of city service to be covered under the city's health plan upon retirement as "retiree coverage."
- B. The city does not want to penalize long-time employees by increasing the years of service required for eligibility to participate in the city's retiree coverage provision under the terms of its municipal health plan.
- C. The city hereby clarifies that non-elected city retirees are eligible for retiree coverage under the city's municipal health plan if they are vested in the city's retirement plan, and age fifty-five (55) with ten (10) years city service on or after January 1, 2002 (at the retired employee's cost). (Ord. No. 1554, Secs. 1-3.)

2.12.09 Loans to participants

- A. General procedure Subject to such rules and regulations of uniform application as the Plan Administrator may from time to time promulgate with respect to the amount of loans, maturity dates, interest rates and security, if any, the Plan Administrator, upon written application of a participant upon a form prepared by the Plan Administrator, may, in its absolute discretion, direct the Trustee to make a loan to such participant upon such terms as the Plan Administrator deems appropriate. The loan program shall be administered by the Plan Administrator or such person as it may appoint ("loan administrator"). A participant wishing to obtain a loan from the plan shall apply to the Loan Administrator by submitting a written loan application which can be obtained from the Loan Administrator upon request. All loans shall be made available to participants without regard to such participant's race, color religion, age, sex or national origin.
- B. Amount of loans The Loan Administrator may authorize loans in an amount not less than One Thousand Dollars (\$1,000.00) and not more than an amount equal to fifty percent (50%) of the present value of a participant's vested account balances under the plan; provided that such loan amount shall in no event exceed the lesser of
1. \$50,000 reduced by the excess (if any) of the highest outstanding balance of loans from the plan to the participant during the preceding one (1) year period over the outstanding balance of loans from the plan to the participant as of the date the loan is made, or
 2. One-half of the present value of the participant's non-forfeitable account balance under the plan.
- C. Loan conditions If approved, each loan to a participant pursuant to this article shall comply with the following conditions:
1. Written instrument It shall be evidenced by a negotiable promissory note.
 2. Interest rate The loan shall bear a reasonable rate of interest which shall be commensurate with the prevailing interest rate charged by persons in the business of lending money for loans made under similar circumstances. Subject to this requirement, the Loan Administrator shall develop rules for determining the interest to be charged on plan loans.
 3. Term The loan, by its terms, must require level amortization of repayments (to be made not less frequently than quarterly) over a period not extending beyond five (5) years.

4. Adequate security The loan shall be secured by up to fifty percent (50%) of the participant's entire right, title and interest in his vested account balances. Any participant who pledges any portion of this vested account balances under the plan shall also be required to execute an Automatic Payroll Deduction Agreement under which loan payments will be deducted from the participant's compensation on at least a monthly basis until the amount of the loan plus interest accrued thereon is paid in full.
5. Default In addition to any other conditions or events the Loan Administrator may specify a loan shall be considered in default if the participant's employment terminates or he fails to pay any installment when due and such failure is not cured within sixty (60) days. Any default by the participant shall, at the election of the Loan Administrator, cause the remaining outstanding balance of the loan to be due and payable at once. In addition, the Loan Administrator shall proceed against the security pledged by the participant in connection with the loan at such time and in such manner as it determines to be in the best interest of the plan.

The Loan Administrator is expressly authorized to delay enforcement of the security interest in the participant's accounts under the plan until such time as the participant is entitled to a distribution under the terms of the plan and the code provided such delay results in no loss of income or principal to the plan. At such time as the participant is entitled to a distribution under the terms of the plan, the Loan Administrator may offset the vested portion of the participant's account balances under the plan against the remaining unpaid balance of the loan plus interest accrued thereon.

6. Liquidation on maturity Each loan shall be due and payable in full by the participant not later than the earliest of
 - a. The maturity date set forth in the promissory note,
 - b. The participant's death, or
 - c. The termination of the plan.

In any event, all loans will mature at the time provided for any distribution to the participant from the plan, and no distribution shall be made to any participant, beneficiary or beneficiaries or to the estate of a participant unless and until all loans to such participant, together with interest accrued thereon, have been paid in full.

7. Investment gain or loss To the extent a participant's loan is secured by this accounts, the investment gain or loss attributable to the loan shall not be included in the calculation or allocation of the increase or decrease in fair market value of the general assets of the plan. The entire gain or loss (including any gain or loss attributable to interest payments or default) shall be allocated to the accounts of the participant.
8. Distribution Upon the default of any participant, the Plan Administrator in its discretion, may direct the Trustee to take such action as the Plan Administrator may reasonably determine to be necessary in order to preclude the loss of principal and interest, including, if the loan is not repaid within sixty (60) days of a participant's severance from employment, causing a foreclosure of the loan to occur by distributing the promissory note to the participant or otherwise reducing the participant's account by the value of the loan. For these purposes, such loan shall be deemed to have a fair market value equal to its face value (including accrued by unpaid interest) reduced by any payments made thereon by the participant. In the event of any default, the participant's prior request for a loan (together with spousal consent, if applicable) shall be treated as the participant's consent to an immediate distribution of the promissory note representing a distribution of the unpaid balance of any such loan. The loan agreement shall include such provisions as are necessary to reflect such consent. (Ord. No. 1948, Sec. 2.)

D. Loan provisions and procedures This loan policy is for the city of Sherwood 457(b) Retirement Plan.

1. Loan subaccounts Loans from the plan may be made to any participant who works for the city of Sherwood and for whom payroll deduction is available to repay the loan. Such individuals are referred to herein as "Eligible Borrowers." Within each Eligible Borrower's account, there shall be maintained a loan subaccount solely for the purpose of effecting loans from the Eligible Borrower's account to the Eligible Borrower.
2. Eligibility of loans Only one (1) loan may be outstanding at any time for any Eligible Borrower. Once a loan has been made, it may not be refinanced.
3. Availability of loans
 - a. Application for a loan must be made to the employer or its delegate in writing and on prescribed forms. The employer or its delegate

may apply different terms and conditions for loans to Eligible Borrowers based on economic and other differences affecting the individuals' ability to repay any loan, and the employer or its delegate may change the terms of any outstanding loan to the extent required by applicable law.

- b. Notwithstanding anything herein to the contrary, no loans shall be made to an Eligible Borrower during a period in which the employer or its delegate is making a determination of whether a domestic relations order affecting the Eligible Borrower's account is a qualified domestic relations order, as defined in Section 414(p) of the Code. Further, if the employer or its delegate is in receipt of a qualified domestic relations order with respect to any Eligible Borrower's account, it may prohibit such Eligible Borrower from obtaining a loan until the rights of the payee entitled to benefits under such order are satisfied.
- c. No loan shall be made to an Eligible Borrower if he or she has ever defaulted on a loan made by the plan to him or her.

4. Amount of loan A plan loan shall be derived from, and the amount available for a loan shall be based on, the Eligible Borrower's vested interest in his account, based on the most recent account valuation available to the employer on the date the loan is approved. The minimum loan available is One Thousand Dollars (\$1,000.00). The maximum loan available is the lesser of

- a. 50% of the Eligible Borrower's vested interest in his or her account; or
- b. \$50,000, reduced by the highest outstanding balance of any plan loan to such Eligible Borrower during the twelve-month period ending on the day before the loan is made.

5. Terms of loan

- a. A loan shall be secured by a lien on the Eligible Borrower's interest in the plan.
- b. The interest rate on a loan shall be a reasonable rate of interest as determined by the Third Party Administrator.

- c. The principal amount and interest on a loan shall be repaid no less frequently than quarterly by level payroll deductions during each payroll period in which the loan is outstanding; provided, however, that an Eligible Borrower may prepay the full amount due under the loan at any time without penalty. The Eligible Borrower may elect a repayment term of 1, 2, 3, 4 or 5 years from the date of the first payroll period coincident with or next following the distribution of the loan from the plan.
- d. Each loan shall be evidenced by a promissory note, evidencing the Eligible Borrower's obligation to repay the borrowed amount to the plan, in such form and with such provisions consistent with this loan provision as are acceptable to the employer and its delegate.
- e. Under the terms of the loan agreement, the employer or its delegate may determine a loan to be in default, and may take such actions upon default in accordance with paragraph (7).

6. Distribution and repayment of loan

- a. The loan proceeds shall be transferred to the Eligible Borrower's loan subaccount by the Trustee and shall be derived from the Eligible Borrower's interest in his accounts under the plan on a pro rata basis. The loan proceeds shall be distributed from the loan subaccount to the Eligible Borrower on the same day as they are received by the loan subaccount.
- b. Repayments of plan loans shall be made to the Eligible Borrower's loan subaccount. Such repayments shall be immediately transferred from the loan subaccount, credited to the Eligible Borrower's account and invested in his accounts under the plan on a pro rata basis, as soon as practicable after they are received by the loan subaccount.

7. Events of default and action upon default

- a. If an Eligible Borrower does not repay the principal and accrued interest with respect to the plan loan at the times required by the terms of the loan, the loan shall be in default and the unpaid balance of the loan, together with interest thereon, shall become immediately due and payable. Further, upon an Eligible Borrower's severance from service, such loan shall be in default and the unpaid balance of the loan, together with interest thereon shall become due and payable.

If, before a loan is repaid in full, a distribution is required to be made from the plan to an alternate payee under a qualified domestic relations order (as defined in Section 414(p) of the Code) and the amount of such distribution exceeds the value of the Eligible Borrower's account less the amount of such outstanding loan, plus accrued interest, if any, the unpaid balance thereon shall become immediately due and payable. The Trustee shall satisfy the indebtedness to the plan before making any payment to the Eligible Borrower or any alternate payee. In addition to the foregoing, the loan agreement may include such other events of default as the employer shall determine are necessary or desirable.

- b. Upon the default of any Eligible Borrower, the employer or its delegate in its discretion, may direct the Trustee to take such action as the employer or its delegate may reasonably determine to be necessary in order to preclude the loss of principal and interest, including:
 - (1) Demanding repayment of the outstanding amount on the loan (including principal and accrued interest), or
 - (2) If the loan is not repaid within thirty (30) days of a request for repayment, causing a foreclosure of the loan to occur by distributing the promissory note to the Eligible Borrower or otherwise reducing the Eligible Borrower's account by the value of the loan. For these purposes, such loan shall be deemed to have a fair market value equal to its face value (including accrued but unpaid interest) reduced by any payments made thereon by the Eligible Borrower. In the event of any default, the Eligible Borrower's prior request for a loan shall be treated as the Eligible Borrower's consent to an immediate distribution of the promissory note representing a distribution of the unpaid balance of any such loan. The loan agreement shall include such provisions as are necessary to reflect such consent. In all events, however, no foreclosure on the participant's loan shall be made until the earliest time pre-tax elective contributions may be distributed without violating the provisions of Section 457(b) of the Internal Revenue Code and the regulations issued thereunder.
8. Suspension during military service Notwithstanding anything in this policy to the contrary, loan repayments will be suspended under this plan as permitted under Section 414(u) of the Code. (Ord. No. 1948)

CHAPTER 2.16

UNCLAIMED PROPERTY

Sections:

2.16.01	Disposal
2.16.02	Sale
2.16.03	Proceeds of sale to owner
2.16.04	Proceeds remaining after six months

2.16.01 Disposal. The Police Chief, under the direction hereinafter set out, is hereby authorized and directed to dispose of at public auction all unclaimed personal property rightfully coming into the hands of his office and to dispose of other confiscated property confiscated under the orders of the City Court with the exception of confiscated liquor.

STATE LAW REFERENCE - For procedure relating to liquor, See A.C.A. 3-3-312

2.16.02 Sale. All unclaimed personal property coming into the hands of the Police Chief will be held by him for a period of six (6) weeks or longer. If property remains unclaimed, he shall periodically advertise such property in some newspaper of general circulation in the City of Sherwood once each week for three (3) consecutive weeks setting forth in the notice the time for the sale which shall not be earlier than five (5) days after the last publishing of the notice and no later than ten (10) days thereafter, designating an easily accessible place for the sale thereof, and giving a complete list and description of unclaimed articles to be sold. The Police Chief shall have the right to refuse any and all bids not satisfactory and will then proceed to advertise these items for sale at a later date. Terms of such sale shall be for cash only. Nothing in this chapter shall prohibit any person who properly identifies any of the property as being their own before the sale from claiming and having property restored to them.

2.16.03 Proceeds of sale to owner. The Police Chief shall deposit the receipt from the aforesaid sale of unclaimed property in the treasury and the Treasurer is to keep these funds in a special account for a period of six (6) months and any person identifying as his own any of such property within the six (6) month period shall upon the presentation of satisfactory proof be paid by the city out of the special account the amount for which the property was sold. The Police Chief or some person designated by him shall keep in a computer data base with print outs in a loose leaf binder, an accurate record and description of each piece of unclaimed property passing through his office, as well as a complete record of those who identified and claimed any of the property before it was sold.

2.16.04 Proceeds remaining after six months. All proceeds from the sale remaining in the special fund for a period of six (6) months shall by the Treasurer be transferred to the city's

general fund and no further payment shall be made therefrom to anyone who thereafter claims ownership.

CHAPTER 2.20

CITY COUNCIL

Sections:

- 2.20.01 Regular meetings
- 2.20.02 Agenda
- 2.20.03 Voting procedure
- 2.20.04 Meeting chairman
- 2.20.05 Public attendance
- 2.20.06 Meeting decorum
- 2.20.07 Public comment

2.20.01 Regular meetings City Council meeting shall commence at 7:00 p.m. beginning with the February 2013 meeting and continue to meet at that time henceforth. Regular Council meetings shall be the fourth Monday of each month. All City Council meetings, except as otherwise provided, shall be held in the City Council chambers in City Hall. (Ord. No. 1976, Sec. 1.)

2.20.02 Agenda Items for the Council meeting agenda shall be due to the City Clerk no later than noon the Tuesday prior to the meeting. Items can be added after the agenda deadline only upon a Council 2/3's vote to suspend the rules. (Ord. No. 1976, Sec. 2.)

2.20.03 Voting procedure City Clerk shall call roll in a random order on all votes of the Council. (Ord. No. 1976, Sec. 3.)

2.20.04 Meeting Chairman

- A. The Mayor shall be the presiding officer at all City Council meetings unless he/she is absent at which case a member of the Council be elected to serve as Chair for that meeting. The Mayor/Chairman will be the responsible party with respect following the agenda, the recognition of Councilmembers when requested to speak or to regulate and moderate citizen comment during the meeting.
- B. During the City Council meetings the City Council members shall assist in preserving order and decorum and will follow the procedures of the Council.

- C. A City Councilmember desiring to speak shall address the Mayor or Chairman and upon recognition by the presiding officer shall confine discussion to the question under debate or discussion. (Ord. No. 1976, Sec. 4.)

2.20.05 Public attendance Citizens and other visitors are welcome to attend all public meetings of the City Council and will be admitted to City Council chambers or any other room in which the City Council is meeting up to the fire safety capacity of the room. Everyone attending the meeting shall refrain from private conversation while the City Council is in session. (Ord. No. 1976, Sec. 5.)

2.20.06 Meeting decorum

- A. Citizens and other visitors attending City Council meetings shall observe the same rules of propriety, decorum and good conduct applicable to members of the City Council. Any person making personal impertinent, profane or slanderous remarks or who become boisterous while addressing the City Council or while attending the City Council meeting shall be removed from the room at the request of the Chair and that person shall be barred from further attendance before the City Council during that session of the City Council. If the Mayor or presiding officer fails to act, any member of the City Council may move to require enforcement of the rules and an affirmative vote or majority of City Council shall require the Mayor or Chair to act.
- B. Unauthorized remarks from the audience, stamping of feet, whistles, yells and similar demonstrations shall not be permitted by the Mayor/Chair who will direct the removal of the offenders from the room. (Ord. No. 1976, Sec. 6.)

2.20.07 Public comment

- A. Public comments concerning specific items for the City Council meetings shall be made at the time that issue has been reached upon the agenda. The City Clerk shall make available a sign-in sheet to include name and address of person(s) addressing Council. Speakers shall be limited to five (5) minutes each in their address to the Council and it shall be the discretion of the Mayor or City Council that if speakers are repeating the same information or otherwise providing redundant information, that public comment on the issue will cease.
- B. Other public comment regarding items that are not on the agenda shall be made at the conclusion of the meeting after the recognition of the speaker by the Mayor or Chair. Citizens likewise are restricted to five (5) minutes in their address to the City Council.

- C. All citizens comments to the City Council shall be comments to the Council by citizens and will not be a discussion between City Council members and the citizens speaking. (Ord. No. 1976, Sec. 7.)

CHAPTER 2.24

MAYOR

Sections:

- 2.24.01 Office created
- 2.24.02 Election
- 2.24.03 Duties
- 2.24.04 Appointment of officers
- 2.24.05 Salary
- 2.24.06 Computer services department
- 2.24.07 Retirement benefits - Mayor's spouse
- 2.24.08 Compensation for expenses

2.24.01 Office created The office of Mayor is hereby created for the city of Sherwood, Arkansas.

2.24.02 Election On the Tuesday following the first Monday in November, 1978 and every four (4) years thereafter, the qualified voters of the city of Sherwood, Arkansas, shall elect a Mayor for four (4) years.

2.24.03 Duties As chief executive of the city, the Mayor shall preside over all meetings of the City Council of the city of Sherwood, Arkansas, and shall perform such duties as may be required of him by state statute or city ordinance.

2.24.04 Appointment of officers The Mayor shall appoint, with the approval of the City Council of the city of Sherwood, Arkansas, (where such approval or confirmation is required) all officers of the city whose election or appointment is not provided for by state statute or city ordinance.

2.24.05 Salary The Mayor's annual salary shall be increased by \$1,750.64 per year (new annual salary \$60,105) and shall be effective on October 1, 2000. There is hereby appropriated \$507.35 in payroll taxes from the General Fund for this action. (Ord. No. 1497, Sec. 1.)

2.24.06 Computer services department

- A. A department of computer services is hereby created to provide computer services for the city of Sherwood.
- B. There is hereby created the position of Director for said department.
- C. The department of computer services shall be answerable to the office of Mayor.
- D. All positions that are now in the computer services are hereby directed to be transferred to this department including all appropriations. (Ord. No. 959, Sec.1-4.)

2.24.07 Retirement benefits - Mayor's spouse

- A. On the death of any Mayor retired under the provisions of the laws of the state of Arkansas or a Mayor who dies while holding office who could be retired and drawing benefits under the laws of the state Arkansas, and who is married and has been married for a period of ten (10) years or longer, then the spouse of said Mayor or retired Mayor may receive benefits equal to one-half of the retirement benefit the retired Mayor was receiving or one-half of the retirement benefit the Mayor who died in office would be entitled to receive if retired.
- B. Upon remarriage of the spouse, the benefits shall cease. (Ord. No. 1064, Sec. 1.)

2.24.08 Compensation for expenses The city shall pay to the Mayor the sum of Five Hundred Fifty Dollars (\$550.00) per month as compensation for the expenses incurred through the utilization of this personal vehicle for city business. (Ord. No. 1616, Sec. 1.)

CHAPTER 2.28

CLERK/TREASURER

Sections:

- 2.28.01 Offices combined
- 2.28.02 Compensation
- 2.28.03 Duties
- 2.28.04 Collector
- 2.28.05 Clerk I position created
- 2.28.06 Upgrading Clerk positions

2.28.01 Offices combined. The offices of City Clerk and City Treasurer are hereby combined into one office to be known as the Clerk/Treasurer.

2.28.02 Compensation. The salary of the Clerk/Treasurer shall be set by the City Council.

STATE LAW REFERENCE - Constitutional Amendment No. 56

2.28.03 Duties. The duties of the Clerk/Treasurer shall be:

- A. To keep an accurate and complete record of the finances of the different departments of the city and of the receipts and disbursements of funds belonging to the different departments of the city, as designated by the City Council.
- B. To perform such other duties as may be required by the ordinances of the city or laws of the State.

2.28.04 Collector. The deputy Clerk/Treasurer shall be the collector of all occupational and privilege taxes and other taxes for the city. The Collector shall keep records on all occupational and other taxes and moneys collected. (Ord. No. 766, Sec. 1-2.)

2.28.05 Clerk I position created

- A. A new position of Clerk I in the City Clerk's Office is hereby created. The Budget Ordinance shall be amended to transfer \$13,255.00 to the City Clerk's Office for this action. (Ord. No. 1341, Secs. 1-2.)
- B. A new position of Clerk 1 in the City Clerk's office is hereby created. (Ord. No. 1370, Sec. 1.)

2.28.06 Upgrading Clerk positions

- A. Upon the recommendation of the Department Head, a position having the pay code of a Clerk I may be upgraded to a Clerk II if the individual having said position has been a Clerk I for a minimum of two years. The Department Head may recommend to the Human Resources Director that said position be upgraded from Clerk I to Clerk II. This recommendation must be approved by the Mayor in order for upgrade to become final.
- B. Upon the recommendation of the Department Head, a position having the pay code of a Clerk II may be upgraded to a Clerk III if the individual having said position has been a Clerk II for a minimum of seven years. The Department Head may recommend to the Human Resources Director that said position be upgraded from Clerk II to Clerk III. This recommendation must be approved by the Mayor in order for upgrade to become final. (Ord. No. 1342, Sec. 1.)

CHAPTER 2.32**CITY ATTORNEY**Sections:

2.32.01	Appointment
2.32.02	Duties
2.32.03	Retirement benefits
2.32.04	Salary

2.32.01 Appointment. The City Attorney of the city of Sherwood, Arkansas, shall be elected at the November, 1990 General Election and every four (4) years thereafter to a four (4) year term commencing the next following January 1.

2.32.02 Duties. It shall be the duty of the City Attorney to prosecute all cases in the Municipal Court for violation of the city's ordinances, and to prosecute and defend, as the case may require, for the city, all cases in which the city may be interested, whether civil or criminal, in all the courts, state and federal. (Ord. No. 846, Secs. 1-6.)

2.32.03 Retirement benefits

- A. Pursuant to A.C.A. 24-12-120, any person who shall serve as City Attorney of Sherwood for a period of not less than ten (10) years, upon reaching age sixty (60), or any person who shall serve as City Attorney for a period of not less than twenty (20) years, without regard to age, shall be entitled to retire at an annual retirement benefit during the remainder of his or her natural life, payable at the

rate of one-half (1/2) of the salary payable to the City Attorney at the time of his retirement.

- B. All payments of retirement benefits under this section shall be payable monthly and shall be paid from the general funds of the city. (Ord. No. 1718, Secs. 1-2.)

2.32.04 Salary The annual salary of the office of the City Attorney shall increase to the sum of Forty Seven Thousand, Five Hundred Dollars (\$47,500.00).

The budget ordinance of the city of Sherwood General Fund for the calendar year 2001 is hereby amended appropriating the sum of Six Thousand, Eight Hundred Seventy Five Dollars (\$6,875.00).

Salary -	\$5,616.00
FICA -	429.00
Federal -	830.00

This increase shall take effect September 1, 2001. (Ord. No. 1540, Secs. 1-3.)

CHAPTER 2.36

FIRE DEPARTMENT

Sections:

2.36.01 Fire protection regulations

2.36.07 Fire protection regulations

- A. From and after the passage of this ordinance, in regard to false alarms, it shall be unlawful for any person firm or corporation to cause or call the telephone number of any Fire Department in Sherwood by an individual or mechanical device or members of any Fire Department in Sherwood or to otherwise cause the siren at any station in Sherwood to be sounded or to turn in any false alarm concerning a fire, except as may be directed by the members or commissioners by said department.
- B. Any person, firm or corporation is responsible for any mechanical fire alarm apparatus on property that they rent, lease, own, purchase or in any other way control. Said person, firm or corporation shall be guilty of a violation in the event said devise malfunctions for any reason three (3) times during any 120 day period.

- C. From and after the passage of this ordinance, it shall be unlawful for any person to run over any fire hose belonging to any fire department while the same is stretched along or across any street or thoroughfare and any person, firm or corporation violating this section shall pay for this section or sections of hose so involved and any fine so levied shall be in addition to the penalty hereinafter provided.

- D. From and after the passage of this ordinance, the parking of motor vehicles shall be prohibited on the east side of Sherwood Avenue from the intersection of Sherwood and Wildwood Avenues to Fernwood Avenue, and parking on the west side of Sherwood Avenue shall be not closer than 59 feet from the south driveway of said fire station.

- E. From and after the passage of this ordinance, no motor vehicle shall be parked within fifteen (15) feet of any fire plug.
- F. From and after the passage of this ordinance only trash burners shall be used that will not allow the fire to blow therefrom and no open container shall be used. Also, no person shall set fire to any grass, garden residue, leaves and limbs left unattended. No burning of any kind of debris, leaves, or trash shall be allowed within ten (10) feet of the street or curb.
- G. From and after the passage of this ordinance no person shall set fire to any grass or matter on any property other than their own without the permission of the Mayor or his designated representative.
- H. From and after the passage of this ordinance it shall be unlawful for any person to block the free travel of fire apparatus upon the roads or streets of said city, and a space shall be maintained between houses sufficient to give such apparatus ample room for ingress and egress.
- I. Any person violating the provisions of Section 2 shall be guilty of a violation and shall be fined not less than Fifty Dollars (\$50.00) nor more than One Hundred Dollars (\$100.00) and each event shall be deemed a separate offense. Any person violating any of the provisions of this ordinance, except Section 2, in addition to other penalties provided shall be fined not less than Fifty Dollars (\$50.00) or more than Five Hundred Dollars (\$500.00) for each offense, and as to any continuing offense, each day shall constitute a separate offense. (Ord. No. 564, Secs. 1-9)

CHAPTER 2.40

POLICE DEPARTMENT

Sections:

2.40.01	Established
2.40.02	Duties of Police Chief
2.40.03	Street and police commissions
2.40.04	Revised police manual
2.40.05	Employment of specialized officers authorized
2.40.06	Additional pay for physical fitness
2.40.07	Civil Service Commission
2.40.08	Adopted
2.40.09	Employees included
2.40.10	C.O.P.P.S. unit
2.40.11	School Resource Officer
2.40.12	New positions
2.40.13	Compensation

2.40.01 Established The city hereby establishes a Police Department which shall be known as the "Sherwood Police Department" and the duties thereof shall be to maintain police protection and police services within the city of Sherwood. (Ord. No. 679, Sec. 1.)

STATE LAW REFERENCE - See A.C.A. 14-52-101 et seq.

2.40.02 Duties of Police Chief The Police Chief shall be the head of the department and shall be fully responsible for the operation and the equipment of the department. It shall be his duty to determine all matters in connection with the operation of his department, except the expenditure of city funds. He shall attend the first Council meeting of the month and make his monthly report to the City Council concerning the operation and equipment of the department, and such other matters as shall be determined necessary by ordinance of the City Council. Other duties shall be such as are fixed by the laws of the state and ordinances of the city. (Ord. No. 679, Secs. 2-7)

The Chief of Police is appointed as the Director of Emergency Services and all duties thereunto pertaining. (Ord. No. 1362, Sec. 1.)

2.40.03 Street and police commissions

- A. Henceforth, the committees of Street and Police shall consist of three aldermen and two other members of the public on each committee.
- B. The members of these committees will be appointed by the Mayor and approved by the City Council (Ord. No. 460, Secs. 1-2.)
- C. The Police Commission of the city of Sherwood is hereby abolished. (Ord. No. 643, Sec. 1.)

2.40.04 Revised Police Manual The Sherwood Police Department Policies and Procedures Manual, attached hereto as Exhibit 1 and incorporated herein by reference as if set out word for word, is hereby adopted. (Ord. No. 1557, Sec. 1.)

2.40.05 Employment of specialized officers authorized

- A. The authorization of specialized police officers is hereby granted and the number in compensation is to be determined by other ordinances.
- B. Said specialized police officers are granted the same powers and authority of arrest as any other law enforcement officer of the city of Sherwood.
- C. Any specialized police officer will be required to meet the minimum standards for employment and the minimum standards of training as required by A.C.A. 12-9-102-108 as amended.

D. Specialized police officers shall be defined as stated in the rules and regulations manual of the executive commission on law enforcement standards and training as revised in 1984. If said manual is amended then said amended manual shall apply to the city of Sherwood. (Ord. No. 662, Secs. 1-4.)

2.40.06 Additional pay for physical fitness

A. Any officer that attains the grade of excellent in the performance of the standards of the physical fitness program of the following section; pull-ups, sit-ups, push-ups, and the one-mile run shall be awarded an additional Ten Dollars per month for the next six months following said grade.

B. Any officer that attains the grade of Outstanding in the performance of the standards of the physical fitness program of the following sections; pull-ups, sit-ups, push-ups, and the one-mile run shall be awarded an additional Fifteen Dollars per month for the next six months following said grade. (Ord. No. 669, Secs. 1-2.)

2.40.07 Civil Service Commission In compliance with the provision of Act 326 of 1949 and Act 166 of 1971, the board of Civil Service Commissioners, consisting of Five (5) members, for all police officers coming under the Civil Service laws of Arkansas.

When a vacancy shall occur on said Board by death, resignation, removal, or expiration of term, or in any other manner, such vacancy shall be filled by the City Council, and in the event a vacancy occurs during the term of office of any commissioner, except by normal expiration of his term, his successor shall fill the unexpired term caused by such vacancy, and at the normal expiration of his term, the City Council shall fill such vacancy by the appointment of a Commissioner for a period of six years. At the expiration of each of the terms herein above set out, succeeding terms shall be for periods of six years each. The Chairman of the Commission for each biennial period shall be the member whose term of office first expires. No person on said Commission shall hold or be a candidate for any political office under any national, state, county, or municipal government, or be connected any way in any official capacity with any political party or organization and no such person as herein enumerated shall be eligible as a member of said Board of Civil Service Commissioners who at any time of his election shall hold any office. (Ord. No. 638, Sec. 1.)

2.40.08 Adopted All of Act 326 of 1949 as passed by the General Assembly of Arkansas, in so far as may be applicable to the city of Sherwood, is hereby adopted in its entirety and made a part hereof just as though set out herein word for word. (Ord. No. 638, Sec. 2.)

2.40.09 Employees included

A. A.C.A. 14-51-102 through 14-51-304 is hereby incorporated in this ordinance as if set out word for word unless otherwise stated as far as it pertains to the Police Department.

- B. Those included are full time, certified, sworn law enforcement officers and full time, certifies, sworn specialized police personnel.
- C. Specifically excluded from coverage by the Civil Service Commission, include but is not limited to, all administrative personnel, secretaries, clerks and part time officers. (Ord. No. 652, Secs. 1-3.)

2.40.10 C.O.P.P.S. unit

- A. On April 27th, 1998 The City Council adopted ordinance 1389. That ordinance established an appropriation for salary and benefits for one additional police sergeant and a reduction by one n the number of authorized police officers in the Sherwood Police Department.
- B. The purpose of this ordinance is to clarify and modify Ord. No. 1389 to the extent that the appropriation and creation of the Sergeant position is limited to the Community Oriented Policing and Problem Solving (C.O.P.P.S.) Unit within the department.
- C. The intent of Ord. No. 1389, at the time of its passage, was to create a special assistant for the Chief of Police at the rank of Sergeant, and that the individual holding the position will not be eligible for promotion to lieutenant from that position and will return to the rank of patrolman if that individual transfers from the C.O.P.P.S. unit to another division within the department. (Ord. No. 1450, Sec. 1-3.)

2.40.11 School Resource Officer Two new positions of School Resource Officer (SRO) are hereby created in the Police Department. (Ord. No. 1549, Sec. 1.)

The budget ordinance shall not be affected until the fourth year of employment due to the acquisition of the COPS in Schools Grant, which will provide complete funding for the positions for the first three years of service. (Ord. No. 1549, Sec. 2.)

2.40.12 New positions

- A. One new position of Lieutenant is hereby created in the Police Department. The Budget Ordinance shall be amended to transfer \$21,852 from General Fund to the Police Department. (Ord. No. 1589, Sec. 1-2.)

2.40.13 Compensation

- A. A step pay plan consisting of twelve (12) steps as shown on the attached Exhibit “A” hereto will be implemented for police uniformed personnel only beginning in January, 2014.

- B. The following is an outline of the steps necessary for implementation, and the requirements for advancement under the police uniformed step pay plan:
 - 1. Step increases based on all employees’ current years of service and educational certification will be implemented on the pay period beginning 12/16/2013 to be paid on the first paycheck in January, 2014.
 - 2. Once these steps are assigned to personnel, any additional step increases will be awarded in February of each subsequent year beginning in February, 2015, provided each employee meets the minimum requirements to receive a higher step increase as set out herein.
 - 3. All certificate level documentation required pursuant to the attached Exhibit “A” must be submitted by each employee no later than December 31 of each year in order to receive credit for any higher step increase in the following year. It is the employee’s responsibility to provide this documentation. No retroactive step increases will be awarded for late submission.
 - 4. All employees eligible for step increases will begin receiving pay according to the attached step system in February, 2015, and the February of each subsequent year thereafter.
 - 5. Any employee at maximum of their eligible step will receive lump sum amounts if the city of Sherwood approves a cost-of-living increase calculated by multiplying the percentage of cost of living increase by said employee’s annual salary (or partial year salary if said raise is given for a partial year).
 - 6. Any employee whose salary has reached the maximum allowable for their job description and has thus been declared redlined shall not be eligible for pay increases pursuant to the step pay plan unless their advancement to the next step results in a change in their job description, thus removing them from redline status.

7. No employee receiving a written reprimand, or similar disciplinary action which in the opinion of the Chief of Police should disqualify said employee from receiving his or her step increase, during any calendar year shall be eligible for a step increase in the following year.

8. All step increases are dependent, in addition to all other requirements set out herein and in the attached Exhibit "A," on employee's receipt of a positive annual employee review for the calendar year prior to implementation of said increase, such evaluation of said employee review to be made by the Chief of Police at his sole discretion. (Ord. No. 2010-, Secs. 1-2.)

CHAPTER 2.44

DISTRICT COURT

Sections:

2.44.01	District Court established
2.44.02	Qualifications and powers of District Judge
2.44.03	Fee for bail or delivery bond
2.44.04	Bail Bondsmen
2.44.05	Chief Deputy Court Clerk
2.44.06	Deputy Court Clerk
2.44.07	Amending of the Budget Ordinance
2.44.08	Probation officer
2.44.09	Deputy Court Clerk-Generalist
2.44.10	District Court Clerk
2.44.11	Small claims court
2.44.12	Court fees
2.44.13	Collection of court fines

2.44.01 District Court established The District Court is hereby established for the city of Sherwood, Arkansas.

2.44.02 Qualifications and powers of District Judge The District Judge shall possess the same qualifications and have the same powers, jurisdiction, functions and duties as is provided by state law for other municipal judges

2.44.03 Fee for bail of delivery bond There is hereby implemented a \$10.00 fee, as authorized in Act 252 of 1997, for each and every bail or delivery bond taken and entered by the Sherwood Police Department at the Direction of the Sherwood District Court. This fee is in addition to all other fees that are implemented by the Sherwood District Court. (Ord. No. 1350. Sec. 1.)

2.44.04 Bail Bondsmen Ordinance 346 entitled, “An Ordinance for the Purpose of Regulating the Business of Bail Bondsmen, Providing for Payment of an Annual License Fee for all Bail Bondsmen Doing Business in the city of Sherwood, Arkansas, Repealing all Laws in Conflict Herewith, Severability Clause; and Providing for Penalties for Failure to Comply Herewith,” dated November 28, 1977. The purpose of said ordinance is now covered by state law. (Ord. No. 1382, Sec. 2.)

2.44.05 Chief Deputy Court Clerk The position known as Chief Deputy Court Clerk shall become the Director, Hot Checks Department and assume exempt status. (Ord. No. 1383, Sec. 1.)

A new position of Deputy Court Clerk is hereby created in the Hot Checks Department Salary - \$13,915; Payroll Taxes - \$1,065; Insurance \$2,164. (Ord. No. 1534, Secs. 1-2.)

2.44.06 Deputy Court Clerk A new position of Deputy Court Clerk is hereby created in the District Court. The Budget Ordinance shall be amended to transfer \$12,336 from the General Fund to the District Court.

Salary - \$10,406; FICA - \$796; Insurance - \$1,134 = \$12,336.00 (Ord. No. 1393, Secs. 1-2)

A new position of Deputy Court Clerk is hereby created in the District Court. The Budget Ordinance shall be amended to transfer \$5,911.83 from the General fund to the District Court.

Salary - \$5,299.20; Payroll Taxes - \$384.72; Insurance \$ 213.60; Workers' Comp - \$14.31 = \$5,911.83. (Ord. No. 1495, Secs. 1-2.)

2.44.07 Amending of the Budget Ordinance The Budget Ordinance shall be amended to transfer \$5,675 from the General Fund to the District Court and the following pay scale placed into effect for the Director, Hot Checks Department:

Step 0 - 28,307	Step 6 - 37,493
Step 1 - 31,452	Step 7 - 38,805
Step 2 - 32,593	Step 8 - 40,163
Step 3 - 33,775	Step 9 - 41,569
Step 4 - 35,000	Step 10 - 43,024
Step 5 - 36,225 (Ord. No. 1383, Sec. 2.)	

2.44.08 Probation officer

A. A new position of Probation Officer is hereby created in the Criminal/District Court Department, and an additional Radio Dispatch/Detention Officer is hereby created in the Police Department.

B. The Budget Ordinance shall be amended to transfer \$24,588 from the General Fund to the Criminal/District Court Department.

\$21,261 Salary; \$1,627 FICA; \$1,700 Insurance = \$20,003 Total

C. Budget Ordinance shall be amended to transfer \$20,003 from the General Fund to the Police Department.

\$17,002 Salary; \$1,301 FICA; \$1,700 Insurance = \$20,003 Total
(Ord. No. 1429, Secs. 1-3.)

2.44.09 Deputy Court Clerk-Generalist A new position of Deputy Court Clerk-Generalist is hereby created in the District Court.

The Budget Ordinance shall be amended to transfer \$16,750.00 from the General Fund to the District Court.

\$14,507 Salary; \$1,109 FICA; \$1,134 Insurance = \$16,750 Total
(Ord. No. 1475, Secs. 1-2.)

2.44.10 District Court Clerk The salary of the Sherwood District Court Clerk is increased to \$50,000 annually. This increase in salary shall be effective July 16, 2003. (Ord. No. 1615, Sec. 1-2.)

2.44.11 Small claims court A new position of Deputy Court Clerk/Small claims is hereby created in the District Court. The budget ordinance shall be amended to transfer \$1,536 from the General fund to the District Court. (Ord. No. 1551, Secs. 1-2.)

2.44.12 Court fees

Ord. No. 1462, Secs. 1-2

Fee for misdemeanors Act 1336 of 1999 allows cities of the first class to adopt by ordinance an additional Five Dollars (\$5.00) fine from individual defendants who plead guilty, *nolo contendere* or is found guilty of or forfeits bond for any misdemeanor or traffic violation in the District Court of that city. The city of Sherwood, Arkansas, hereby adopts the provisions of Act 1336 of 1999 and hereby authorizes the Sherwood District Court to levy this addition fine.

Ord. No. 1827, Secs. 1-4

- A. The city of Sherwood does hereby levy an additional fine of Twenty Dollars (\$20.00) from each defendant who pleads guilty of *nolo contendere* to, is found guilty of, or forfeits bond for any misdemeanor or traffic violation in the District Courts or City Courts of the county.
- B. The monies collected pursuant to this ordinance shall continue to be deposited in the fund known as the Act 1188 of 2003 Fund.
- C. All District Courts in Pulaski County shall immediately begin levying and collecting the fine prescribed herein and remitting the revenues derived herein to the Pulaski County Treasurer on a monthly basis, for deposit in said fund as required by Act 209 of 2009. Remittances shall be received by the 5th day of each month.

- D. The revenues generated by the levy of this fine shall be used exclusively for the maintenance, operation, and capital expenditure of the Pulaski County Regional Detention Facility. Pursuant to Act 209 of 2009, these revenues are supplemental to any current funding that is being provided.

2.44.13 Collection of fines The Sherwood Police Department shall be designated as the department primarily responsible for the collection of fines assessed by the Sherwood District Court. All fines collected shall be disbursed to the Sherwood City Clerk. (Ord. No. 2026-, Secs. 1-2.)

CHAPTER 2.48

EMERGENCY SERVICES COORDINATOR

Sections:

- 2.48.01 Position created
- 2.48.02 Authority under state law

2.48.01 Position created The City Engineer is appointed as the Director of Emergency Services and all duties thereunto pertaining. (Ord. No. 1656, Sec. 1.)

2.48.02 Authority under state law This position is created in conjunction with the Emergency Services Act, Act 511 of 1973.

STATE LAW REFERENCE - A.C.A. 12-75-101 through 129.

CHAPTER 2.52

PERSONNEL POLICIES

Sections:

2.52.01	General
2.52.02	Employment
2.52.03	Compensation
2.52.04	Conduct
2.52.05	Leaves
2.52.06	Benefits
2.52.07	Salary increase for two positions
2.52.08	Personnel Commission created

2.52.01 General General Purpose: These policies are enacted by the city of Sherwood in order to further the following goals:

- A. To provide a uniform system of personnel administration throughout the city service.
- B. To ensure that recruitment, selection, placement, promotion, retention and separation of City employees are based upon employees' qualifications and fitness, and are in compliance with Federal and state laws.
- C. To assist managers in the development of sound management practices and procedures, and to make effective consistent use of human resources throughout the city.
- D. To promote communication between directors, supervisors, and employees.
- E. To ensure, protect and clarify the rights and responsibilities of employees.

At-Will Employment: Non-Uniformed Employees: The city of Sherwood is an at-will employer. This means that the city of Sherwood or any city employee may terminate the employment relationship at any time for any reason with the understanding that neither has an obligation to base that decision on anything but his or her intent not to continue the employment relationship. No

policies, comments, or writings made herein or during the employment process shall be construed in any way to waive this provision. (Ord. No. 1406, Sec. 1.)

Scope: These Personnel Policies and Procedures shall apply to all City employees. In the event of conflict between these rules, City ordinance, or state or federal law, the terms and conditions of that contract, rule or law shall prevail. In all other cases, these policies and procedures shall apply.

It is the duty of the employee to keep abreast of any changes in policies. All notices to employees will be posted on the bulletin board in the Human Resources Department. All forms related to personnel will be designed and implemented by the Human Resources Department.

THE CITY SPECIFICALLY RESERVES THE RIGHT TO REPEAL, MODIFY OR AMEND THESE POLICIES AT ANY TIME, WITH OR WITHOUT NOTICE. NONE OF THESE PROVISIONS SHALL BE DEEMED TO LIMIT THE POWER OF THE CITY TO REPEAL OR MODIFY THESE RULES. THE POLICIES ARE NOT TO BE INTERPRETED AS PROMISES OF SPECIFIC TREATMENT.

Americans With Disabilities Act (ADA) Policy

To provide a reasonable policy and procedure that will ensure: 1) equal opportunities for disabled persons to participate in and benefit from services, programs, or activities sponsored by the City; 2) a bias free environment for disabled employees, or for disabled persons who seek employment with the city; and, 3) prompt and equitable resolution of complaints alleging discrimination on the basis of a disability.

The city of Sherwood does not discriminate on the basis of race, color, national origin, sex, religion, age, marital status, sexual preference or orientation, or disability in employment or the provision of services. It is the intent of the City to guarantee disabled persons equal opportunity to participate in or enjoy the benefits of City services, programs or activities, and to allow disabled employees a bias free work environment. The City, upon request, will provide reasonable accommodation in compliance with the Americans With Disabilities Act (ADA).

The City is committed to creating an environment in which facilities for public meetings and general public use are accessible. Furthermore, the City will provide auxiliary aids and services (interpreters, readers, assisted listening devices, text telephones, large print materials, audio tape, help in filing out forms, and other similar services and actions) if necessary and if such reasonable accommodation can be provided without undue hardship to the City. Disabled persons may request the auxiliary aids and services of their choice, which will be given primary consideration. Communication of accessibility will be included in City publicity announcements.

The City has a commitment to ensure equal opportunities for disabled city employees. Every reasonable effort will be made to provide an accessible work environment and additional accommodations, including auxiliary aids and services. Employment practices (e.g. hiring, training, testing, transfer, promotion, compensation, benefits, termination, etc.) will be administered in such manner as to not promote discrimination of disabled employees. Recruitment and selection processes will grant equal opportunity for employment to qualified applicants and will not discriminate on the basis of disability. Reasonable accommodation will be provided upon request during an application/interview process.

All future construction and renovation of City-owned buildings and facilities will be carried out in accordance ADA Accessibility Guidelines (ADAAG).

In the event citizens, employees, or other participants in the City's programs, services, and activities feel the City has violated their rights under the ADA, contact the Human Resources.

2.52.02 Employment

A. Pre-employment drug screening

The city of Sherwood is committed to providing safe and efficient services to its residents.

All applicants selected for employment will be drug screened prior to employment. This test will be paid for by the city. No-one may start performing work for the City until the results are received from the drug screen laboratory. (Ord. No. 1406, Sec. 1.)

B. Tests

The testing program required by the regulations is limited to five drug types:

- Marijuana
- Cocaine
- Opiates
- Amphetamines
- Phencyclidine (PCP)

Applicant protection is built into the testing procedures. The only laboratories to be used are those that have been certified by the federal government. The Substance Abuse and Mental Health Services Administration certifies laboratories that have met all the guidelines established by the Department of Health and Human Services.

After the urine specimen has been collected and forwarded to the laboratory, two tests are performed:

Initial Test: this is an immunoassay screening test to determine drug usage for the five classes of drugs.

Second Test: this is a confirmation test.

Only specimens that are confirmed positive on the second or confirmatory test are reported positive to the city for review and analysis. The city will contact the employee or applicant and confer regarding the results to determine if a false positive is possible. If after making all reasonable efforts and documenting these efforts, the city is unable to reach the applicant directly, the city will withdraw the conditional offer of employment, and no further employment action will be taken in regards to said applicant.

Applicants who refuse to submit to a drug test or test positive will not be considered for employment and the conditional letter of employment will be withdrawn.

Under the regulations, actions constituting a refusal to submit to a test are:

Failure to provide sufficient urine for a drug test without a valid medical explanation;
Engaging in conduct that clearly obstructs the testing process.

C. Administration of employee personnel records

1. The Office of Human Resources is responsible for establishing and maintaining the official personnel file for all employees of the city of Sherwood. All files will be maintained in accordance to federal and state records retention guidelines.

Each employee is encouraged to verify the information contained in the personnel file through periodic examination. An administration representative must be present when the file is examined. The purpose of the audit or inspection is to ensure accuracy and completeness of the file.

Employees, their immediate supervisor, and their department head may review the personnel file in the Office of Human Resources, upon request. Copies of file contents may be made without charge. Employees may, by signed written authorization, permit other individuals to have access to all or a portion of their personnel file. Copies of file contents requested by individuals outside of the city of Sherwood will be made at a charge of \$.15 cents per page.

Department heads may maintain a departmental personnel file, following content guidelines provided by the Director of Human Resources. The Director of Human Resources shall oversee material maintained in departmental personnel files to ensure compliance with federal and state record-keeping and retention guidelines.

2. Items not included in the Official Personnel File (excluding the most recent ongoing disciplinary action) may not be used for either promotional or disciplinary proceedings. (Ord. No. 1406, Sec. 1.)

D. Equal employment opportunity

Equal Employment Opportunity Policy. It is the policy of the city to ensure equal employment opportunity for all employees, applicants and appointed representatives. This commitment includes a mandate to promote and afford equal treatment and services to all citizens, employees and City representatives, and to assure equal employment opportunity based on ability and fitness to all persons regardless of race, religion, color, creed, national origin, sex, marital status age, or the presence of any sensory, mental, or physical disability unless such disability

effectively prevents the performance of the essential duties required of the position and which are bonafide occupational qualifications which cannot be accommodated without undue hardship.

The goals and objectives of the Equal Employment Opportunity Policy are to:

1. Ensure fair treatment and non-discrimination in city hiring and employment.
2. Provide compliance with State And Federal equal opportunity requirements and regulations.

E. Program responsibility

The Human Resources Director shall serve as the Equal Opportunity Officer to carry out the Equal Employment Opportunity Policy and Program. The Officer shall be the focal point for the city's equal opportunity efforts and shall advise and assist staff and management personnel in all matters regarding implementation of and compliance with the Equal Employment Opportunity Policy, and be responsible for the successful execution of the program, utilizing the assistance of appropriate State and community agencies. The Equal Opportunity Officer will have responsibility to examine existing internal policies or procedures which may serve as barriers to implementing the Equal Employment Opportunity Program.

F. Hours of work

Employees are expected to be at their work location and ready to begin work at the beginning of their work schedule.

Advance notice of anticipated tardiness is expected; notice of unavoidable tardiness is expected when possible. Failure to do so will be construed as an unexcused absence, and the time missed will not be paid.

G. Nepotism

Immediate family will not be employed in regular full-time or part-time positions where:

1. One relative would have the authority to supervise, appoint, remove, discipline or evaluate the performance of the other.
2. One relative would be responsible for auditing the work of the other.
3. Other circumstances exist which would place the relatives in a situation of actual or reasonably foreseeable conflict between the City's interest and their own.

Immediate family includes spouse, child, parent, brother, sister, grandparents, parent-in-law,

daughter-in-law, son-in-law, or grandchildren. This policy shall also apply to persons related by blood or marriage residing in an employee's home.

H. Probationary period

The Sherwood Policy Manual, page number 2-3 and 2-4, under the heading, "Probationary Period," shall be abolished and removed from the employee policy manual. (Ord. No. 1496, Sec. 3.)

I. Employee in-processing/orientation

All new full-time and part-time employees of the city will be scheduled to meet with Human Resources on their first day of work for general orientation. It is the new employee's duty to keep abreast of all changes in policies and procedures.

The Human Resources Department will distribute and explain the various enrollment forms, etc.

that must be filled out.

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Each new employee will be provided with information on employee benefits, city policies and operations.

The hiring department provides additional information to the new employee, including:

- A. Work standards and regulations
- B. Hours of work, time cards or reports, leave requests
- C. Duties of the position
- D. Safety rules and procedures, location of safety or protective equipment
- E. Tour of the work area, including location of equipment, supplies, etc.
- F. Introduction to co-workers
- G. Schedule for lunch and breaks
- H. When and whom to report absence from work
- I. Who is responsible for performance planning and review

J. Types of employment and eligibility for benefits

- 1. The types of City employment are:
 - a. Full-Time Employee: An employee who has successfully completed the probationary period, is assigned to a position which works a shift schedule that will total no less than 2080 hours per year.
 - b. Part-Time Employee: Part-time employees are those individuals working less than 40 hours in a work week.
- 2. Employee compensation shall be stated in terms of hourly wage.
- 3. Entitlement to employee benefits shall be as provided by the City:
 - a. Employees classified as full-time employees shall receive all employee benefits provided by the City.

K. Recruitment

Non-Uniform Employees

- 1. The Human Resources Department will be notified immediately of all position vacancies.
- 2. A determination will be made by the Human Resources Department, in

cooperation with the department, whether to accept in-house candidate applications only or whether outside candidates will be considered for employment also.

3. The Human Resources Department will distribute to all City departments copies of the job announcement which will be open for a minimum of ten days (in house will be five (5) days).
4. No applications for a position are accepted after the published closing and/or receipt date. If there are not sufficient qualified candidates at the closing date, the position is re-opened and re-advertised. This section may be waived, by the Human Resources Director, for certain high turnover positions, where there is a continual need for applications.
5. The Human Resources Department in cooperation with Department Heads, will screen all applications received to determine qualifications for the open position. Applications of qualified candidates will be forwarded to the hiring department for final review and comment prior to scheduling candidate interviews.
6. Prior to making a conditional offer of employment, the Human Resources Department will conduct all reference checks and arrange for pre-employment drug testing. Department Heads may review reference inquiry information and conduct follow up checks if they wish to do so. (Ord. No. 1523, Sec. 1.)

Uniform Employees

Applicants for uniformed positions must take an entrance examination administered by the Civil Service Commission, in coordination with the Human Resources Department, unless otherwise provided for by law. Examinations are usually given in April of each year (more times if needed). The time and place of the examination will be designated in an announcement by the Civil Service Commission. Scores obtained on the examination will identify the individual's position on the eligibility list. Eligibility lists are in force and effect for one (1) year from the date of certification by the Civil Service Commission. All uniformed positions are filled in accordance with the rules and regulations of the Civil Service Commission and applicable laws.

L. Lump sum termination pay

Upon termination, resignation, retirement, or other action by which a person ceases to be an active employee of the city, the amount due the employee from accrued and unused annual leave shall be paid to the employee in a lump sum within seven (7) days.

Employees hired after March 1, 1993, upon termination, resignation, retirement, or other action by which a person ceases to be an active employee of the city, shall be paid the amount representing the employee's accrued, unused annual leave in a lump sum within seven (7) days of the employee's last day worked. (Ord. No. 1494, Sec. 2.)

Upon death of an active employee, the amount of unused annual and holiday leave due the employee, shall be paid to the employee's estate or authorized beneficiary. This lump sum shall not exceed fifty (50) days of annual and holiday leave.

M. Employees hired prior to March 1, 1993

Upon resignation, employees hired prior to March 1, 1993 shall not be paid in excess of the amount of sick leave accrued on March 1, 1993. If the employee's balance should ever fall below the amount accrued on March 1, 1993 that becomes their maximum payable. If the balance falls below 720 hours (90 days), then 720 hours becomes the maximum amount of sick leave that can be accrued. This lump sum payment shall be made to the employee's estate or authorized beneficiary in the event of death.

Example: An employee who had 1,000 hours of sick leave on March 1, 1993, and whose balance never falls below 1,000 hours, would be paid for a maximum of 1,000 sick hours. If that same employee's balance fell to 850 hours, he/she would be paid for 850 hours. Should that employee's sick leave balance ever fall below 720 hours (90 days), the employee would be paid for the actual balance up to a maximum of 720 hours.

Upon retirement (retirement age) those employees hired prior to March 1, 1993 shall be paid for all accrued sick leave.

Upon resignation or retirement, non-uniform employees hired prior to March 1, 1993, shall not be paid in excess of the amount of sick leave each employee accrued on March 1, 1993. If the employee's balance even falls below the amount accrued on March 1, 1993, this lower amount becomes the maximum amount that may be paid to the employee upon resignation or retirement. This lump sum payment shall be made to the employee's estate or authorized beneficiary in the event of death.

With respect to the accrual of sick time for use during bona fide illness as set forth in the sick leave policy, employees hired before March 1, 1993, may accrue sick leave time for bona fide use without limitation. However, if this balance falls below 720 hours (90 days), 720 hours becomes the maximum amount of sick leave that can be accrued for use during bona fide illness.

Example: An employee who had 1,000 hours of sick leave on March 1, 1993, and whose balance never falls below 1,000 hours, would be paid for a maximum of 1,000 sick hours and has this amount of time available for use during bona fide illness.

If this same employee's balance fell to 850 hours he/she would be paid for 850 hours and only has 850 hours available for use during bona fide illness prior to resignation or retirement.

In the event this employee's sick leave balance falls below 720 hours (90) days, the employee would be paid, upon retirement or resignation, for the actual balance. Further, this employee, while still employed, would only be permitted to accrue up to the 720 hour maximum.

Upon the death of an active employee hired before or after March 1, 1993, the amount of unused annual and holiday leave due the employee at the time of his/her death shall be paid to the employee's estate or authorized beneficiary. This lump sum shall not exceed fifty (50) days of annual and holiday leave. (Ord. No. 1494, Sec. 3.)

N. Employee termination and out process

Service Retirement is voluntary termination after having satisfied the age and length of employment requirements of the city's retirement plan. LOPFI's retirement plan for Police Officers (Ord. No. 1406, Sec. 1.)

Employee - Initiated Resignation is voluntary termination for any reason other than formal retirement.

Discharge is termination of an employee by the city.

Probationary Termination is discharge of an employee during the established probationary (introductory employment) period. A probationary termination occurs only after the supervisor's consultation with the Human Resources Department.

Layoff is termination of an employee by the city for lack of work, lack of funds, or other changes that have taken place. Work schedules should be planned to keep periodic or recurring layoffs to a minimum.

In layoff, recall and filling regular job vacancies, the city shall give equal consideration to an employee's ability and performance of the duties required in the job and consideration to an employee's length of continuous service with the city in the classification. In applying this provision, where qualifications, experience and performance are equal, seniority shall govern. Every effort will be made for transfers to other departments when a position is open for which the employee qualifies. Uniformed employees will be laid off and recalled based on seniority. (Ord. No. 1406, Sec. 1.)

The city shall provide an employee with at least two (2) weeks advance notification prior to layoff, except in case of emergency. An employee on layoff must keep the City informed of the address and telephone number where he/she can be contacted.

If the City is unable to contact the employee within seven (7) calendar days, the City's obligation to recall the employee shall cease. The City shall have no obligation to recall an employee after he has been on continuous layoff for a period which exceeds one (1) year. Should an employee not return to work when recalled, the City shall have no further obligation to recall him.

Out Process

Employees shall receive pay for work performed through the last hour worked and for unused benefits as stipulated by policy and laws governing such payments.

Termination pay shall be reduced by any authorized legal deductions; authorized pension plan; credit union, tax sheltered annuity; and any other amounts due the City.

Before the full paycheck is issued to the employee, the employee shall be required to return all City equipment and property to the appropriate issuing authority.

The official date of termination will be the last full day the employee reports for work.

Benefits such as health care, dental and life insurance cease the last day of the month of termination. Refer to COBRA section for continuation of health benefits. All termination forms must be submitted to the Human Resources Department for processing.

O. Diversity

The city of Sherwood strives to create a productive environment for its employees, while providing quality services for the citizens of Sherwood, Arkansas. In both obvious and subtle ways, discrimination of any kind adversely affects our ability as a city government to accomplish that mission.

All complaints of discrimination, derogatory comments, or other offensive behaviors based on age, gender, race, or ethnicity which occur in the workplace or are related to the workplace are to be reported to the employee's department head, or the Director of Human Resources. Proven cases of unacceptable behavior will result in disciplinary action, up to and including termination of employment.

P. Complaint Procedure

It is the policy of the city of Sherwood to give prompt and impartial consideration to the complaints of its employees. Employees who submit complaints in accordance with the procedures which are set forth in this policy may do so without penalty or fear of reprisal. These procedures are applicable to all non-civil service employees, and shall also apply to employees not covered by any other complaint policy.

The city of Sherwood recognizes the right of employees to seek a solution concerning disagreements arising from working relationships, working conditions, or employment practices between the city and its employees.

Temporary employees and employees in their initial 90 day evaluation period of employment do not have access to the complaint procedure except in cases of alleged discrimination in violation of applicable laws and regulations.

Basic management rights such as, but not limited to, the right to direct and assign employees, to determine staffing patterns, to establish rates of pay and broad areas of financial management, performance evaluations, reduction in staff, and conditions mandated by law are not subject to the complaint procedure except in cases of alleged violations of applicable laws and regulations.

Sexual harassment complaints are covered under a separate procedure, and may not use the city's complaint procedure.

A complaint under this procedure must be initiated within fifteen (15) working days of the action involved giving rise to the complaint, or within fifteen (15) working days of the employee's having reasonable knowledge of the action.

Q. Confidentiality Commitment

As a city employee, you may be privy to confidential information about fellow employees, the general public, or the city as a financial entity. It is your responsibility to ensure that this information is treated with the proper respect for individual privacy. Violations of employee or employer confidentiality are considered gross misconduct and may result in immediate dismissal.

The Computing Services department may monitor use of electronic systems and report access of confidentiality violations to the appropriate department head and the Director of Human Resources. All employees are responsible for immediately reporting any apparent violations of this confidentiality policy to their department head.

R. Rehires

Employees who leave employment with the city of Sherwood may be eligible for rehire, providing they separate their employment with the city in good standing. Separated employees who are declared "ineligible for rehire" by their current department will not be considered for rehire in that department. Employees dismissed for reasons of "gross misconduct" are not eligible for rehire anywhere within the city.

2.52.03 Compensation

A. Compensation

It is the policy of the City and the purpose of this plan to establish a compensation system that will allow the City to effectively compete for qualified personnel and to ensure that salaries are equitable and commensurate with the duties performed by each employee. The salary schedule shall be adopted by the City Council and shall apply to all employees.

New Employees All new employees will ordinarily start between the minimum and the hiring range based on their education, prior experience, and skills for the job. The hiring salary will be recommended by the hiring department's Director, reviewed by the Human Resources Director, and recommended to the Mayor for final approval.

Cost-of-Living Cost-of-living adjustments (COLA) may be given annually based on the City's ability to provide funding. The Mayor may recommend a COLA increase based on Consumer

Price Index (CPI-W) data provided by the U.S. Department of Labor. The City Council has responsibility for approving the City's annual budget.

Re-evaluation Department Heads may request the review of any position in their department that they believe may be misclassified. The office of Human Resources will review the job duties and determine if a change in classification is required. If the new classification is lower than the current classification, any incumbent's salary will be unaffected by the change. If the new classification is higher than the current classification, any incumbent's salary will be changed to equal 85% of the midpoint for the classification, or 4%, whichever is greater.

Maintenance of the Compensation Plan The office of Human Resources shall be responsible for the continuous maintenance and administration of the City's Compensation Plan. The office of Human Resources shall recommend to the Mayor changes to keep the plan current, uniform and equitable. Any changes shall be authorized by the Mayor's office and shall then be submitted to the Budget Committee. The Budget Committee will be submit its recommendations in the annual budget to the City Council. (Ord. No. 1652.)

B. Compensatory time/overtime

Overtime shall be defined as all work performed in excess of the hours permitted under the FLSA and shall be paid at a rate of one and one-half times the employee's regular rate.

Uniformed employees (covered by Civil Service) Any hours worked in excess of 40 hours within a 7 day pay period.

Non-uniformed employees Any hours worked in excess of 40 hours with a workweek as defined by the City.

Department Heads and supervisors should only approve overtime hours in instances where it is not possible to accomplish the department's objectives within the normally scheduled hours for employees. In no instances should an employee be permitted to work overtime without prior authorization by their immediate supervisor or Department Head.

Employees designated as salaried exempt by the office of Human Resources are not eligible to receive overtime compensation for hours worked in excess of their normally scheduled hours. All employees designated as either salaried non-exempt or hourly, that work overtime must be paid at a rate of one and one-half times the employee's current hourly rate.

Department Heads may not discriminate in determining who will be eligible to work additional hours that would result in overtime compensation. However, variation in eligibility that are based on differences in specific job requirements are permissible. The office of Human Resources should approve any variations in overtime eligibility prior to their implementation.

Compensatory time is defined as time-off given to an employee in lieu of overtime payment. compensatory time for hours that would otherwise be paid at an overtime rate must be given at a rate of one and one-half hours of compensatory time for each overtime hour worked. Department Heads may determine as a department-wide practice whether they will permit compensatory time in lieu of paid overtime hours.

All accrued, but unused, compensatory time must be used prior to use of annual leave. Employees must receive their Department Head's approval prior to the use of compensatory time and must report all accrued and used compensatory time on their timesheets. Unless otherwise approved by the Department Head, an employee must provide the same amount of notice required to take annual leave if they wish to take accrued compensatory time-off. Department Heads may also require an employee to use accrued compensatory time within a specified period of time.

Up to 40 hours may be rolled over each calendar quarter. Any accrued, but unused compensatory time above 40 hours will be paid to the employee on the first pay period following each calendar quarter. School Resource Officers may accumulate up to 480 hours of compensatory time before the time is required to be paid to them by the City.

It is the responsibility of each Department Head to equitably administer the provisions of this policy within their department. Department Heads shall ensure that all overtime and compensatory time earned and used is recorded on the employee's official time record for payroll purposes. (Ord. No. 1652.)

C. Performance review date

The employee's performance review date will be the employee's original date of hire, except in instances where the employee has been promoted, in which case the performance review date will be the effective date of the promotion.

D. Promotions

An employee may competitively apply for a position that is classified at a level higher than their current job. If they are selected, the employee will receive an increase in pay in the percentage amount recommended each year during the annual City budget process, and approved by the City Council. This amount may vary from year to year based on availability of funding. Applicable state statutes and Civil Service Commission rules govern promotions for uniformed employees.

E. Job descriptions

The office of Human Resources will assist each Department Head in creating and maintaining up-to-date written descriptions of each regular full and part-time job. Job descriptions may change based on the needs of the department or the City.

Job descriptions do not constitute employment agreements between the City and its employees, and are intended for information purposes to assist managers and their employees in identifying the primary tasks and qualifications required for successful job performance. Omission of specific statements of duties does not exclude them from the position, if the work is similarly related to, or a logical assignment of the position. The descriptions are subject to change dependent upon the needs of the City and requirements of the position.

The office of Human Resources with the approval of the Mayor and the Personnel Commission will ensure that job descriptions are regularly updated.

F. Demotions

An employee may voluntarily or involuntarily accept a job that is classified lower than their current position. Demotions may occur at the initiation of the employee or their Department Head. Demotions initiated by the employee, or by their Department Head for disciplinary reasons, will result in a reduction in their rate of pay commensurate with the degree of difference in expectations for the new job as compared to their current job. The Department Head will recommend a new rate of pay, in consultation with the office of Human Resources for approval by the Mayor. An employee who is involuntarily reassigned to a position that is classified lower than their current position in lieu of a layoff will not receive a reduction in pay, and the employee's performance review date will remain unchanged. An employee may also be demoted for disciplinary reasons. If so, their performance review date will not change. Demotion, if voluntarily initiated by the employee, will change the performance review date for the employee. Demotions that are involuntary will not change the performance review date for the employee.

G. Garnishment

Garnishment is defined as a legal stoppage of a specified sum from an employee's wages to satisfy a creditor. Notice of garnishment will be forwarded immediately to the Payroll Administrator. The Payroll Administrator will receive and sign for any notice of garnishment, and will forward a copy to the City Attorney. Upon receipt of notification from the Payroll Administrator that the appropriate deductions are made from the employee's paycheck, the City Clerk's office will forward a check for the portion of the paycheck subject to garnishment to the creditor as directed.

H. Pay advances

Employee requests to receive their paycheck in advance of the regular pay date must be made in writing to their immediate supervisor, and approved by their Department Head. The office of Human Resources will provide departments with a request form to be used in requesting all pay advances. Department Heads should only approve pay advances in instances where it would represent an extreme hardship for the employee to receive their pay on the normally scheduled payday. An employee may only request pay advances for actual time that has already been worked. The City cannot loan money to an employee.

I. Time sheets/preparation of payroll

All departments are expected to maintain work and leave records for their employees in support of the City's payroll function. All employees are classified into one of three categories for timekeeping purposes:

1. Salaried exempt Employees whose primary function is professional or administrative in nature. These employees are not required to report actual hours work, but are required to report all leave hours taken. Salaried exempt employees are not eligible to receive overtime compensation or compensatory time-off for hours worked in excess of their normal schedule.
2. Salaried non-exempt Employees whose normally scheduled work hours do not vary from pay period to pay period. These employee report all work and leave hours to the departmental timekeeper, who will record them and submit them with the departmental timesheet. Salaries non-exempt employees are eligible to receive overtime pay. They are also eligible to receive compensatory time, if approved by their Department Head.
3. Hourly Employees whose normally scheduled work hours may vary slightly from pay period to pay period. These employees report all work and leave hours using individual timesheets or by clocking in and out using a mechanical device to record time. Hourly employees are eligible to receive overtime pay. They are also eligible to receive compensatory time, if approved by their Department Head.

Employees required to complete timesheets must complete their own timesheet. City employees required to track working hours by use of a time clock must clock themselves in or out. Having a co-worker complete your timesheet or clock in or out for you is a violation of city policy and will be treated as falsification of records.

Employees required to report hours worked and/or leave taken must do so using the city's approved timesheets. The employee and their immediate supervisor, and/or Department Head must sign the timesheet prior to its submission for payroll processing. All Department Heads are expected to review work hours and leave time reported prior to its submission for payroll.

An employee may authorize their paycheck to be released to another individual by contacting the office of Human Resources. Employees may direct inquiries concerning payroll matters to the Human Resources Department.

J. Informal problem resolution The purpose of this policy is to provide an informal process to internally resolve mob-related problems. Whenever problems arise, the city

of Sherwood expects management to address them as quickly as possible to resolve misunderstandings or conflicts.

Most issues can be resolved directly with the employee and immediate manager. Unless an exceptionally sensitive situation exists, this process should occur before proceeding to the next level of management for assistance.

Employees are encouraged to speak with their immediate supervisor if they encounter problems that affect their work performance. If the problem has not been resolved in speaking with their immediate supervisor, the employee should speak with their Department Head.

Managers and employees may at any time speak with the Director of Human Resources to clarify how city policies or federal and state employment statues, regulations, or guidelines impact a particular employment circumstance. The Director of Human Resources may consult with the City Attorney or outside Counsel if there are questions concerning the application of a law or regulation to an individual set of facts.

If an employee is unable to resolve a work-related problem they are having by speaking with their immediate supervisor and Department Head, they may request to meet with the Mayor. Any decision made by the Mayor will be final.

K. Interim appointments The city of Sherwood may ask an employee to assume a different, or greater, set of duties and responsibilities to accommodate the interim staffing needs of their department, or another department.

Procedure

1. Interim appointments will not normally result in a reevaluation of the employee's job description due to the brief amount of time involved.
2. Department Heads should provide the employee with a written set of additional duties, or job expectations, prior to the start of the interim appointment.
3. It is the responsibility of every Department Head to ensure that any full-time employee who assumes an interim assignment has a written set of job expectations on file in the office of Human Resources using either the standardized job description form, or a memorandum format, and that the job duties accurately reflect the job expectations for the employee.
4. Job descriptions do not constitute employment agreements between the city and its employees.
5. Job descriptions are not all inclusive, and the immediate supervisor or Department Head may assign specific duties not listed as required by the operational needs of the department.
6. The employee's Department Head may recommend an interim pay adjustment anytime after the first thirty (30) days of the new assignment.

7. If the period of the interim appointment exceeds three (3) months, the Human Resources Director will recommend an adjustment in the employee's pay based on the amount of responsibilities assumed, giving consideration to the expected length of the interim appointment.
8. If approved, the Department Head will submit a Personnel Action form (PAF) to the office of Human Resources requesting an interim pay adjustment for the employee.
9. The request will be sent to the Mayor, who has final approval authority on the change.
10. If approved by the Mayor, the office of Human Resources will generate a new PAF for the job, and send it back to the requesting department as a confirmation of the transaction's approval. (Ord. No. 1702, Sec. 1.)

L. Redline policy The city of Sherwood shall adopt a "Redline" policy regarding salaries of employees. A "Redlined" salary employee shall be defined as an individual that has reached or exceeded the maximum rate of pay for their assigned job.

Any employee determined to be in "Redlined" salary status shall receive no additional increases in compensation until such time as their salary is below the maximum of their assigned salary range. In the event the city elects to approve a cost-of-living increase, "Redlined" employees will receive a lump sum amount equal to the increase multiplied by their base salary. (Ord. No. 1899, Secs. 1-3.)

2.52.04 Conduct

A. Employee

It shall be the duty of employees to maintain high standards of cooperation, efficiency and integrity in their work with the city. If an employee's conduct falls below standard, he/she may be subject to disciplinary action. Progressive disciplinary action may be used in an attempt to correct the deficiency in the employee's performance.

A "disciplinary action" is any action taken against an employee for deficiencies in job performance or misconduct short of terminating the employee's employment with the city. Verbal admonishments (date, time, circumstance) shall be noted by the Supervisor and placed in the personnel file. Written notices of discipline will normally contain specific information indicating the specific deficiency, and may indicate specific corrective actions to be taken by the employee. A copy of the notice will be placed in the employee's personnel file for a period of at least one year, or greater, if the deficiency has not been corrected. The city will consider disciplinary action in situations where the conduct appears detrimental to the city, its residents visitors or other employees. Some general examples of job deficiencies or misconduct for which an employee may be disciplined include, but are not limited to those listed under "Categories of Offenses."

B. Categories of offenses This list is not all-inclusive and does not restrict the city's ability to make employment-related decision, as it deems fit as an at-will employer.

C. Categories

- A.
 - 1. Conviction of a felony or misdemeanor offense.
 - 2. Reporting to work under the influence of intoxicants or controlled substances that impair the employee's ability to perform their job in an effective or safe manner.
 - 3. Violence of any nature against a fellow employee or member of the public.
 - 4. (Non-uniformed) Bringing unauthorized firearms or explosives onto city property.
 - 5. Failure to perform assigned duties in an efficient and effective manner.
 - 6. The use of profanity or abusive language towards a fellow employee or member of the general public while performing official duties as a city employee.
 - 7. Insubordination or disrespect towards superior.
 - 8. Falsifying or altering a report or record whether oral or written.
 - 9. Contributing to a hostile or intimidating work environment.
 - 10. Job abandonment (3 or more, non-consecutive, "No-call, no-show" instances of any kind.
 - 11. Theft, or removal of city money, merchandise, or property in custody of the city without permission.

- B.
 - 1. Divulging or misusing confidential information, including removal from city premises, without proper authorization, any records, lists, or confidential information of any kind.
 - 2. Violating safety rules and regulations. Conduct unbecoming an employee of the city.
 - 3. Abuse of sick leave privileges by reporting sick when not sick or obtaining sick leave pay falsely or under false pretenses.
 - 4. Feigning injury to avoid duty.
 - 5. Being absent from work without permission or failure to report to the supervisor when one is absent.
 - 6. Speaking critically or making derogatory or false accusations so as to discredit other employees or supervisors.
 - 7. Lying to supervisors in connection with the job.
 - 8. Violation of any of the rules and regulations or ordinances of the city of Sherwood.

- C.
 - 1. Unexcused or excessive absenteeism or tardiness.
 - 2. Any act or omission of an act contrary to good order and discipline of city employees.

3. Failure to appear neat and clean on duty, (as job duties dictate).
4. Poor quality/productivity and/or poor job performance.
5. Abuse of sick leave.

Above, we have listed performance deficiencies into three (3) categories from A – C based on their severity. The city of Sherwood is an at-will employer, and as such, may choose to terminate an employee's service without cause at any time. The following are guidelines for managers that outline customary outcomes of discipline for the offenses listed above.

Category A: Normally offenses listed in Category A are of such a nature as to require the employee's immediate dismissal for the first offense.

Category B: Normally offenses listed in Category B are of such a nature as to require that at least a written disciplinary notice to the employee. Any subsequent offenses within a twelve-month period would result in the employee's termination.

Category C: Normally offenses listed in Category C are of such a nature as to require at least an oral reprimand or written disciplinary notice for the first offense. Any subsequent offenses of the same nature within a twelve-month period would result in a written disciplinary notice or termination.

D. Performance evaluation The office of Human Resources will send the Performance Evaluation forms to the appropriate Department Head thirty days prior to the anniversary date of the employee. In the interest of providing an effective supervisory appraisal, an employee should have worked for the supervisor conducting the evaluation for a period of at least 90 days. When this is not the case, the previous supervisor shall rate performance. The rating official shall be an individual who has direct knowledge about the employee's performance and had access to all the employee's performance records.

Procedure:

1. The supervisor will complete a progress report of the employee's job performance with the employee on the employee's anniversary date of each year. If the supervisor has identified shortcomings in the employee's performance, the employee shall be notified at that time of ways for the employee to improve.
2. Within one-week prior to the employee's anniversary date and before meeting with his/her supervisor concerning his/her annual performance evaluation, the supervisor/department head may request the employee complete and submit the employee portion of the performance evaluation form. The evaluation form may be obtained from the Human Resources Department and should be submitted to the employee's evaluating supervisor.

3. The annual performance evaluation will be in written form and discussed with the employee before it is forwarded to the Human Resources Director for review and Mayoral approval. The completed review and any self-evaluation will be filed in the employee's personnel record.

E. Harassment The city of Sherwood is committed to maintaining a health work environment in which all employees are free from harassment and discriminating behavior that adversely affects their ability to perform their job. All employees must be aware that they may not engage in any acts that threaten, harass, demean, or torment fellow employees. Harassment is defined as any annoying, persistent act or actions that singles out an employee to that employee's objection of detriment, because of, but not limited to race, sex, religion, national origin, age or disability. Examples of harassment may include any of the following:

1. Verbal abuse or ridicule;
2. Interference with an employee's work;
3. Display or distribution of sexually offensive or racist material;
4. Discrimination against any employee in work assignment or job-related training based upon their membership in a protected class;
5. Unwelcome physical contact;
6. Unwelcome sexual or racial innuendoes;
7. The demanding of favors (sexual or otherwise), explicitly or implicitly, as a condition of continued employment, promotion, transfer or any other form or condition of employment.

The city of Sherwood follows applicable state and federal laws regarding sexual harassment in the workplace. The city of Sherwood will not tolerate conduct or action(s) that constitute sexual harassment when:

1. Submission to such conduct is either explicitly or implicitly a term or condition of employment; and/or
2. Submission to or rejection of such conduct by an employee or applicant is used as a basis for employment decisions affecting such employee or applicant; and/or
3. The conduct has the purpose of effect of substantially interfering with an employee's work performance or creates an intimidating, hostile, or offensive work environment.

Actions defined as sexual harassment are not limited to the "supervisor to employee" relationship, and may include co-workers, the same or opposite sex or individuals external to the city of Sherwood, but who have contact with employees in the work environment. Employees are expected to assist in the prevention of harassment and discrimination by:

1. Refraining from participation in or encouragement of acts that constitute or could be perceived as constituting harassment or discrimination;
2. Reporting observed acts in violation of this policy to a supervisor, Department Head, and/or office of Human Resources;
3. Encouraging any employee who confides that they are being harassed or discriminated against to report the behavior to a supervisor, Department Head, and/or office of Human Resources.

Complaint procedures: Employees who believe they have been sexually harassed, harassed, or otherwise discriminated against should immediately report the incident using the procedure below. The complaints must be made in writing to ensure that it can be properly investigated. The city of Sherwood will make every effort to maintain the confidentiality of all parties involved in any complaint. A complaint may be initiated by reporting the incident to their supervisor, Department Head, or the office of Human Resources. The manager receiving the complaint will notify the office of Human Resources immediately of the complaint. The office of Human Resources will initiate an investigation of the facts within 2-3 business days. The office of Human Resources will prepare a report of the investigation for the Mayor, who shall meet with the appropriate Department Head to discuss any required employment actions. It will be the Department Head's responsibility, in consultation with the Director of Human Resources to determine appropriate action to be taken in regard to the complaint, consistent with the prior actions taken in similar instances throughout the city. The Department Head will communicate their decision in writing with five business days to all parties of the complaint.

This policy applies to all city departments and employees.

F. Personal appearance City employees should always be well-groomed and dressed in a manner suitable for their job in providing public service and ensuring that they reflect a positive image for the city. The supervisor, if necessary, may require the employee to leave their workstation to correct any area regarding their personal appearance. If an employee is required to leave work to correct the problem, the employee will not be paid for that time.

G. Workplace violence Violence or conduct that can lead to violence is strictly prohibited in the workplace and on city property. In keeping with this policy, the following rules will be strictly enforced:

1. Weapons of any type are forbidden in the workplace and on city property.
2. Violent acts or threats of violence, fighting, pranks, or horseplay are forbidden in the workplace and on city property.
3. All city of Sherwood employees are required to treat fellow employees, citizens, and city officials with courtesy and respect.

Violation of any of these rules will result in disciplinary action up to and including termination.

H. Personal telephone calls City phones are to be used for city business and may be used for personal reasons on a limited basis. Personal calls received during business hours must be kept to a minimum number and time limit and must not interfere with the employee's performance of their job.

When a long-distance call must be placed, the call is to be billed to the employee's home number or made collect. It is the employee's responsibility to ensure that no cost to the city results from their use of city-owned telephones for personal calls. Violation of this policy will result in reimbursement of incurred expenses to the City and may subject the employee to disciplinary action.

I. Public relations You have the very important responsibility of meeting the people of Sherwood and providing services to them. The impressions you make help to either positively or negatively affect the public's opinion about the effectiveness of City Government and its employees, as well as affect the public's perceptions of the general efficiency of our city departments.

It is expected that you will treat all members of the public with courtesy and respect. If you are uncertain of the correct answer to any question, you should ensure that you have the correct answer before responding, or alternatively refer the questioner to another employee or department that may be better able to provide a correct answer to the question. It is better to admit lack of knowledge than to provide a wrong answer.

J. Use of tobacco products by city employees within city-owned facilities Smoking has been determined by the Surgeon General to be adverse to an individual's health. Second-hand smoke may also be adverse to the health of individuals. "Smoking" shall mean a lighted cigar, cigarette, pipe or other lit tobacco product. This policy also covers the use of any tobacco product, whether chewed, dipped, or in any way placed in direct contact with the mouth.

Smoking is prohibited in all city-owned and operated buildings. Rest breaks may be permitted at the discretion of each Department Head, and should be restricted to no more than fifteen (15) minutes at a time, and no more frequently than twice per day. All employee rest breaks are considered work hours, and as such are paid time. Vehicles: No smoking in city vehicles when a non-smoker is present.

K. Solicitations With the exception of approved organizations, peddling or soliciting for sale or donation of any kind on city property is not allowed. Exceptions may be granted in writing by the Mayor. Employees may not solicit donations, or otherwise sell retail items to another employee during working hours. Employees are free to discuss these matters outside of their work hours, and outside of work areas.

L. Job safety Safety is largely the use of good judgment and the practice of good work habits. It requires good judgment to know the safe way and it requires good work habits to continue to perform your job the safe way. If an employee is not positive of which way is the safest, they should ask their supervisor or Department Head for the correct method. Unsafe conduct is misconduct. The following safety rules should always be observed:

1. Follow all departmental safety rules and the city's Safety and Health and Written Hazard Communication Program guidelines.
2. Use all mechanical safeguards on or for employee equipment.
3. Immediately cease using and report any faulty or potentially faulty equipment to the supervisor or a Department Head.
4. Immediately report any unsafe or potentially unsafe working condition or equipment.
5. Immediately report any and every accident to the supervisor or Department Head.

M. Outside employment or moonlighting If an employee is considering additional employment, he or she should discuss the additional employment with his or her Department Head or supervisor for approval. If, as an employee of the city, an employee participates in additional employment, it must not interfere with the proper and effective performance of his or her job with the city. An employee's outside employment must not be of a nature that adversely affects the image of the city, or of a type that may be construed by the public to be an official act of the city or which in any way violates these policies. City uniforms shall not be worn during outside employment unless approved in advance by the Mayor (non-uniformed personnel) or the Police Chief (uniform personnel).

N. Outside compensation No reward, gift or other form of remuneration in addition to regular compensation shall be received from any source by employees of the city for the performance of their duties as employees of the city. If a reward, gift or other form of remuneration is made available to any employee; it shall be credited to a designated employee fund with approval of the Mayor.

2.52.05 Leaves

A. Inclement weather policy If hazardous travel conditions occur during normal duty hours, city employees other than designated emergency Public Works and Police Department personnel, will be governed by this policy. Employees who report to work within two hours of their normally scheduled work time will be paid for any additional time required to get to work as a result of the weather. Employees who do not report, as scheduled for work will not be paid, but may request annual leave time for the hours missed, subject to the approval of their Department Head.

B. Holidays Regular full-time employees shall be granted time off to observe the following scheduled holidays:

- | | |
|---------------------------------|--|
| -New Years day | - January 1 |
| -Dr. Martin L. King, Jr. | - 3rd Monday in January |
| -Presidents' Day | - 3rd Monday in February |
| -Memorial Day | - last Monday in May |
| -Independence Day | - July 4 |
| -Labor Day | - 1st Monday in September |
| -Veterans Day | - November 11 |
| -Thanksgiving Day | - 4th Thursday in Nov. & following day |
| -Christmas Eve | - December 24 |
| -Christmas Day | - December 25 |
| - Employee Birthday/Special Day | |

If a holiday falls on a weekend day, consult with your Department Head, or the office of Human Resources, about when the city will celebrate the holiday. Normally, when a holiday falls on a Saturday, it will be observed the preceding Friday. If the holiday falls on a Sunday the following Monday will be observed. The Mayor may issue an order granting additional days as holidays in observance of special events or for other reasons. Any employee absent without physician certification, or prior approval the day before or the day after an observed holiday will not be paid for the holiday.

Full-time, uniformed employees will be paid for holiday leave on the first full pay period in December.

C. Employee leaves (non-uniformed) Regular full-time, non-uniformed employees accrue annual leave time as an employee benefit.

ANNUAL LEAVE (non-uniformed)

<u>Years completed</u>	<u>Annual hours</u>	<u>Annual days</u>
1 – 3 years	96	12
4 – 9 years	120	15
10 – 15 years	160	20
16 – 20 years	176	22
Over 20 years	200	25

1. All regular full-time employees may accrue up to 240 hours, or 30 days of annual leave, that may be carried over to the next calendar year if not used.
2. Any accrued, but unused leave in excess of 240 hours per calendar year will be lost if not used.

3. All annual leave must be approved prior to its use by the employee's immediate supervisor or Department Head.
4. Department Heads may request that their employees use annual leave at a time that is convenient to the operational needs of the department. However, Department Heads and managers should make every effort to grant annual leave requests when they do not interfere with the services provided by the department.
5. Sick leave may not be used in lieu of annual leave if the employee has insufficient accrued hours. However, annual leave may be used in lieu of sick leave with the approval of the employee's Department Head.
6. Employees may request annual leave by completing an Employee Leave form.
7. Department Heads may establish individual departmental rules regarding the approval of annual leave requests, provided they are applied uniformly to all departmental employees.
8. Employees may request to receive cash for up to one (1) week of accrued, but unused annual leave, per calendar year. Their Department Head and the Mayor must approve this request, referred to as a "Vacation buyback."
9. Employees in requesting a "Vacation buyback" should use the same Employee Leave form.
10. Any accrued, but unused annual leave balance, at the time of an employee's separation from service with the city for any reason, will be paid as part of the final check to the employee, minus any monies owed the city.
11. Annual leave time should be submitted on the Departmental Timesheet coded with a (V), and reflect the annual leave hours taken.
12. Department Heads and managers should address employee abuse of annual leave as a disciplinary matter.
13. All violations of this policy should be documented using the Disciplinary Action form. (Ord. No. 1691, Sec. 1.)

SICK LEAVE (non-uniformed)

Regular full-time non-uniformed employees accrue sick leave. Sick leave will be accrued from the start date of their regular full-time employment.

<u>Years completed</u>	<u>Annual days</u>
1 – 12 years	20
13 – 20 years	22
Over 20 years	24

Sick leave may be accrued up to a maximum of 90 days. Employees hired prior to March 1, 1993, are covered under Ord. No. 1494 concerning the maximum accrual, and lump sum payment of sick leave. Sick leave must be earned before it can be used. Employees cannot borrow from anticipated future accruals. An employee may not accrue sick leave if they are not in an active pay status for the entire pay period. Sick leave is provided as a benefit to be used for the following purposes:

1. When the employee is unable to work because of bona fide sickness, accident or injury; medical, dental, optical treatment, or maternity leave.
2. Death or serious illness of a member of the employee's immediate family or requests for the employee's presence by immediate family, doctor or clergy due to family illness or emergency. Immediate family is defined as: father, mother, sister, brother, son, daughter, grand-parents, grand-children, son-in-law, daughter-in-law, spouse, or spouse's immediate family.
3. Employees may use up to three (3) days of sick leave upon the birth or adoption of a grandchild.

Use of sick leave time for any other purpose is considered abuse of sick leave, and employees will be disciplined for any violations. Absences due to personal illness, except in cases of maternity leave, must be charged in the unused, annual leave. Earned sick leave accruals must be exhausted prior to taking any unpaid leave of absence for any medical reason.

In the event of an employee's death, while in an active pay status, all accumulated sick leave will be paid to the dependent spouse or child or to the dependent's estate.

Sick leave is accrued on the basis of workdays not calendar days. Non-work days such as holidays and weekends are not charged as sick leave. Employees continue to earn sick leave while they are in an active pay status.

Employees who are on sick leave for three (3) or more consecutive days may be required to furnish a certificate of illness from an attending physician by their Department Head. When an employee is unexpectedly ill, or is requesting sick leave because of the unexpected illness of an immediate family member, they must notify their Department Head or supervisor as soon as practicable. Notification of unexpected absences due to illness should be made within 30 minutes after the beginning of the employee's scheduled workday. Failure to do so may result in denial of such leave pay. The employee should also let the supervisor know when they expect to return to work. Employees on disability or sick leave should contact their supervisor on a regular basis within information concerning their medical status, and expected physician's release date of return to duty on either a restricted, or unrestricted basis.

Requests to use sick leave for the purposes of medical, dental, or optical examinations, treatments should be made in sufficiently in advance of the appointment to allow the Department Head to plan for the absence. Department Heads may decline to approve sick leave requests for medical or dental appointments if proper advanced notice is not given, if the absence of the employee would cause a disruption in the department's operation.

LUMP SUM TERMINATION PAY

Employees hired after March 1, 1993, upon termination, resignation, retirement, or other action by which a person ceases to be an active employee of the city, shall be paid the amount of any accrued, unused annual leave in a lump sum within seven (7) days of the employee's last day worked. Upon death of an active employee, the amount of accrued, but unused annual and holiday leave shall be paid to the employee's estate or authorized beneficiary.

EMPLOYEES HIRED PRIOR TO MARCH 1, 1993

Upon resignation or retirement, non-uniformed employees hired prior to March 1, 1993, shall not be paid in excess of the amount of sick leave each employee accrued as of March 1, 1993. If the employee's balance ever falls below the amount accrued on March 1, 1993, this lower amount becomes the maximum amount that is eligible to be paid to the employee upon resignation or retirement. This lump sum payment shall not exceed 720 sick leave hours in the event of an employee's death, and will be paid to the employee's estate or authorized beneficiary in the event of death. Employees hired before March 1, 1993, may accrue sick leave time for bona fide use without limitation. However, if this balance falls below 720 hours (90 days), the employee would be paid, upon retirement or resignation, for the actual balance. Further, this employee while still employed, would only be permitted to accrue up to the 720 hour maximum.

D. Uniformed employees

ANNUAL LEAVE (uniformed)

<u>Years completed</u>	<u>Annual hours</u>	<u>Annual days</u>
1 – 9 years	120	15
10 – 12 years	136	17
13 – 14 years	160	20
15 – 20 years	176	22
Over 20 years	200	25

All provisions of the non-uniformed annual leave (C) shall apply to this section. (Ord. No. 1691)

SICK LEAVE (uniformed)

In accordance with A.C.A. 13-52-107, uniform employees shall accrue sick leave at the rate of 20 days per year beginning with the start date of their employment. Uniformed employees may not use any sick leave during their first year of employment. Additionally, if a uniformed employee leaves the city during their first year of employment, they are not eligible to

receive payment for any accrued, but unused sick leave. Uniformed employees may accrue a maximum of 720 hours of sick leave. Upon retirement, or death in an active pay status, uniformed employees shall be paid for all accrued, but unused sick leave, not to exceed 720 hours to be paid at the regular rate of pay.

All other provisions of the non-uniformed employees' sick leave policy not in conflict with state law shall apply to this section.

E. Bereavement Regular full-time employees may receive up to 24 hours of paid bereavement leave to handle necessary funeral arrangements for a death in their immediate family. Employees will be paid their regular hourly rate, but no more than eight hours pay for any one day. Immediate family shall be defined as: mother, father, brother, sister, son, daughter, grandparents, grandchildren, son-in-law, daughter-in-law, spouse, or spouse's immediate family.

F. Jury/court leave All full-time employees shall be granted leave with pay for jury duty or when subpoenaed as a witness during scheduled working hours, as long as they are not a party to the case. Leave with pay shall be paid at the employee's regular rate of pay. Jury/court leave covers the time an employee is required to be in court, and normal travel time required for the employee to return to work. Employees are expected to return to work after they have completed their responsibility to the court.

All regular full time employees (on duty or off duty) subpoenaed as a witness by any judicial court or commission as a direct result of being employed by the city are considered to be in regular, active pay status, and will continue to be paid their regular hourly rate or overtime as required.. Uniformed employees subpoenaed to appear in Civil Service Commission hearings on behalf of an employee appealing disciplinary action will be paid if the employee is subpoenaed to testify during their regularly scheduled hours. A copy of the subpoena must be given to the employee's immediate supervisor and forwarded to the office of Human Resources.

G. Leave of absence without pay Requests for leave of absence without pay shall be in writing and shall state specifically the reasons for the request, the date desired to begin the leave, and the expected date of return. The request shall be submitted by the employee to their Department Head. The Department Head shall forward the request to the Human Resources Director. The Human Resource Director shall then make a decision based upon the best interest of the city, giving due consideration to the reasons given by the employee, and the requirements of any applicable state and Federal laws.

The Human Resources Director after consultation with the Mayor may grant a regular full-time employee a leave of absence without pay not to exceed ninety (90) days for non-medical purposes.

No sick leave, holiday, vacation benefits or any other fringe benefits shall accrue while the employee is on leave of absence without pay. Any employee on an approved leave of absence without pay may choose to continue their medical, dental and life insurance coverage by paying the total amount of the premium to the city in advance for each month or portion thereof of in which they are absent, subject to limitations set by the provider. Upon their return to work, the employee will be reinstated in the position held at the time the leave was granted or another equivalent position if available.

The Mayor may approve a request from the employee to extend a leave upon written request by the employee. Extension of a leave of absence without pay may not normally exceed an additional ninety days, and will be based on departmental as well as employee consideration. Employees who fail to return to work on the date specified in the leave request without receiving an extension in advance are subject to disciplinary action up to and including termination. Any employee in an unauthorized leave without pay status for more than three working days will be considered to have abandoned their job.

H. Military leave This policy applies to all City employees who are affiliated with the United States Armed Forces, National Guard or Coast Guard.

Employer's Responsibilities: The City shall release employees for service with the Armed Forces when the employee participates in:

1. Annual Training (Summer Camp)
2. Active Duty for Training (School)
3. Inactive Duty Training Assemblies (Weekend drills)
4. Extended leave of absence for voluntary active duty service
5. Involuntary call-up

As limited by PL 94-286.

Military leave of absence shall not result in loss of employment status or benefits that the employee would have normally received had they not been absent for such purposes. Full-time employees will be granted up to 120 hours for military training per calendar year, plus necessary travel time. In accordance with A.C.A. 21-4-102, military leave is cumulative; however, no employee shall have more than 240 hours in one calendar year for use. The employee may request use of vacation, compensatory time, or leave without pay to supplement absences exceeding those covered by the policy. The City will make a reasonable effort to adjust work schedules and assignments to accommodate employees fulfilling military obligations.

Employee's Responsibilities: The employee is responsible for providing their Department Head with copies of all military orders that require the employee to take a leave of absence, whether for annual training or active duty. Orders must specify the duties of absence, promulgation authority, letter order number and signature of issuing authority. Employees are required to notify their supervisors at the earliest possible date upon learning of scheduled military duty. Employees who fail to return to work on the date specified in the leave request without receiving an extension in advance are subject to disciplinary action up to and including termination. Inactive duty training dates (weekend drills) should be provided to the Department Head as soon as available if the dates conflict with the employee's normally scheduled work hours. Extended leave of absence (exceeding 30 calendar days) are covered under the policy on LEAVE OF ABSENCE WITHOUT PAY.

Procedure for requesting leave:

1. All military leaves will be processed through the Leave Form.
2. It is the responsibility of the official verifying time sheets in each department to annotate the use of military leave on the employee's monthly time record. Military leave will be registered on the department time record by use of the letters ML.

Procedure for return from military leave of absence: Employees who entered the Armed Forces or National Guard are entitled to return to their civilian job after discharge or release from active duty if the five (5) basic eligibility criteria, as defined by the Veteran's Re-employment Rights (VRR) law are met: The employee

1. must hold an "other than temporary" civilian job. The job need not be "permanent;"

2. must have left the civilian job for the purpose of going on active duty;
3. must not remain on active duty longer than four (4) years unless otherwise extended involuntarily by the federal government;
4. must be discharged or released from active duty “under honorable conditions” or “under other than dishonorable conditions;”
5. must apply for re-employment with the pre-service employer within ninety (90) days of separation from active duty.

Upon completion of military leave, an employee will be reinstated with the same seniority, status, pay and benefits continuation as if he/she had remained continuously on the job.

Emergency military leave: Any employee occupying a classified position by appointment of unlimited duration and who is a member of a reserve component of the Armed Forces ordered to perform emergency duty, by compulsory call of the Governor or the President, shall be entitled to an emergency military leave of absence. Thirty (30) days paid leave shall be provided to those called under such circumstances in addition to all other leave the employee shall be entitled to. A.C.A. 21-4-102.

I. Family and medical leave (FMLA leave) City employees who request or may be placed on FMLA leave must satisfy the following conditions:

1. be employed by the city for more than one year; and
2. have completed 1,250 hours of work within the 12 month period preceding the leave.

This policy provides up to 12 weeks of leave in a 12 calendar month period. The 12 month period will be measured forward from the date any employee's first FMLA leave begins. Because of the complex nature of this Act, it is recommended that employees and/or Department Heads discuss any questions concerning specific requests with the office of Human Resources.

1. Family and Medical Leave is to be used for the following purposes:
 - a. the birth of a son or daughter of the employee and in order to care for such son or daughter;
 - b. the placement of a son or daughter with the employee for adoption or foster care;
 - c. to care for a spouse, son, daughter, or parent of the employee who has a serious health condition;
 - d. to take medical leave for a serious health condition that makes the employee unable to perform the functions of their position.
2. The ability to request leave covered by reasons 1 and 2 above expire at the end of the twelve (12) month period beginning on the date of such birth or placement.⁵²

3. paid sick, compensatory time, or annual leave time must be used prior to requesting any unpaid FMLA leave.

Employees requesting leave under this section should, whenever practicable to do so:

1. Provide a notice to their Department Head thirty (30) days prior to expected beginning of a requested leave, such as childbirth, adoption, or planned medical treatment. However, if emergency conditions prevent thirty (30) days notification, you must notify your Department Head as soon as possible.
2. Provide a physicians certification to verify a serious health condition. If there is a disagreement that occurs over the medical opinion provided by the physician, the city may require a second medical opinion. Any second medical opinion will be paid for by the city.
3. Periodic reports during FMLA leave regarding your medical status, for those taking leave as a result of a personal illness, may be required.
4. When leave is needed to care for an immediate family member, or the employee's own illness, and the leave is for planned medical treatment, the employee should attempt to schedule treatment so as not to disrupt the department's operations.

Leave provisions for spouses both working for the city

1. In a situation where both spouses work for the city of Sherwood, the number of work weeks of leave to which both may be entitled is limited to 12 work weeks during a 12 month period, except where a serious health condition applies to that employee;
2. The employee may elect to continue their medical, dental and life benefits while on Family and Medical Leave by paying the full amount of the premium.
3. During your unpaid FMLA leave you will not accrue any paid employee leave benefits.

Release to return to work A physician's statement stating that the employee is available to return to work in an unrestricted status is required for all employees who are on FMLA medical leave for their own serious health condition.

Job restoration Employees are expected to return to work the next working day following their FMLA leave. Employees who fail to return to work may forfeit the job protection provided by the FMLA leave.

Employees approved for FMLA leave will be returned to the same position held prior to the leave or a position of equivalent pay, benefits and other terms and conditions of employment, whenever practicable to do so.

J. Voting & political activity: The city of Sherwood employees are encouraged to take part in the political process by voting. Employees who are not able to vote outside of normally scheduled work hours may take up to one hour of paid leave for the purpose of voting. Any additional time required to vote, if during the employee's normally scheduled work hours, may be requested as annual leave or personal day. Sick leave may not be used for the purpose of compensating hours for voting.

Employees are free to engage in campaigning and other active political expression outside of their normal work hours. No city property, equipment, or facilities may be used for any political or campaign purpose without prior written authorization from the Mayor. No employee may engage in political activity that will create an actual or perceived conflict of interest with their job responsibilities with the city and must refrain from any comment about any candidate that would create the appearance that the city or the employee in their official capacity favored or disfavored any candidate or ballot issue. If an employee has any questions concerning the permissibility of a specific type of political activity they may consult with the Director of Human Resources or City Attorney.

2.52.06 Benefits

A. Credit union City employees are eligible to participate in the Arkansas Federal Credit Union. The credit unions offer a number of services to members, including savings programs, share draft checking, money market accounts, certificates of deposit, individual retirement accounts (IRA's), loans, check cashing, loan protection insurance, and member account insurance. All contributions are financed 100% by the employee. Employees may arrange to have payroll deductions from their paycheck or payment to their credit union account. For more information concerning the Credit Union contact the Human Resources Department.

B. Cellular telephones Local cellular telephone companies offer their government rates to all full-time government employees who wish to use their service. Employees must complete a credit check and will be responsible for their own bills. Interested employees should contact the Human Resources Department.

C. Group dental plan The City offers to all regular full-time employees and their eligible dependents supplemental group dental coverage. Specific provisions of the plans are described in information provided to each new employee during the new employee orientation, and are available to all employees in the office of Human Resources during normal business hours.

Enrollment cards are available in the Human Resources Department during normal business hours. It is the employee's responsibility to notify the office of Human Resources of any change in dependent status by completing a change form. Upon termination of employment, employees will be contacted by mail, within ten (10) working days, concerning their right to continue their dental coverage. Employees must respond regarding continuation of their coverage within 45 days of notification.

D. Deferred compensation The city provides the ability for any regular full-time employee to invest a portion of his/her salary in a deferred compensation plan. A deferred compensation plan allows the employee to personally invest money towards his/her retirement on a tax-free basis. The taxes are deferred until their retirement, when they withdraw funds. For further information on deferred compensation contact the office of Human resources during normal business hours.

E. Life Insurance All regular full-time employees are currently covered by a term life insurance policy paid for by the city.

F. Group medical insurance and short term disability The city offers to all regular full-time employees and all eligible dependents group medical insurance. Coverage becomes effective the first day of the month, following 30 days of service, from the date of employment. Specific health and short-term disability benefits are described in information during the new employee orientation, and are available to all employees in the office of Human Resources during normal business hours. Enrollment forms are available from the office of Human Resources. It is the employee's responsibility to notify the office of Human Resources of any change in dependent status by completing a change form.

Upon termination of employment with the city, the employees who are fifty-five (55) years or older and vested in the city's retirement plan may elect to continue medical coverage under the city's health plan in accordance with Arkansas Act 664. All other employees may elect to continue coverage for up to eighteen (18) months under the Consolidated Omnibus Budget Reconciliation Act (COBRA) (P.L. 99-272). Contact the office of Human Resources for more information regarding your right to continue coverage.

G. Retirement plans All regular full-time city employees are eligible to participate in one of the four retirement plans offered by the city of Sherwood. The majority of city employees are eligible to participate in the Municipal Employees Retirement Plan. Employees have vested benefits in the plan with a minimum of ten years of service. Annual benefit statements are provided by the plan administrator to participating members. It is each employee's individual responsibility to keep information in their file up-to-date related to their retirement account such as name, address and beneficiary.

Uniformed employees are covered under Arkansas Local Police and Fire Retirement Plan. They have vested benefits in the plan with a minimum of five years of service.

The District Judge is covered under the Arkansas District Judges Retirement System (ADJRS). The Court Clerk is covered under the Arkansas Public Employees' Retirement System (APERS).

Employees who plan to retire from the system are encouraged to contact the office of Human Resources at least 90 days in advance of the planned retirement date to allow adequate time to calculate their benefits prior to their retirement date

H. Workers' compensation The city provides Workers' Compensation coverage for all full and part-time employees. This coverage provides medical and salary continuation benefits to employees who are injured while on the job. Injuries occurring while traveling to or from work or occurring away from the workplace are not covered.

An injured employee must report any accident resulting in an injury to their supervisor as soon as practicable. It is the Department Head's responsibility to notify the office of Human Resources. The office of Human Resources will mail the appropriate Workers' Compensation forms to the department.

In an effort to assist injured employees, the city will supplement workers' compensation benefits by providing injured employees regular pay up to a maximum of thirty (30) days from the time of their injury, if they are required to be off work. The employee will sign over to the city, any payments salary received for the city maintains discretion to terminate this supplemental payment as the circumstances warrant.

Employees injured on the job who are entitled to Workers' Compensation benefits may also use their accrued sick leave as a supplement to such benefits received from the coverage up to the amount of their normal regular full or part-time salary. Uniform allowances and tool/maintenance allowances will be discontinued during the time an employee is out of work due to a work-related injury, but will resume once the employee returns to an unrestricted active pay status.

I. Employer paid education All regular full-time employees, active statue employees, who have completed one year of employment are eligible to apply for the city's educational assistance program. The following guidelines shall apply:

1. Courses shall be limited to those that lead to improvement in job performance as approved by the employee's Department Head and the Mayor. Course enrollment shall be limited to Arkansas-based accredited institutions only.
2. If the course is approved the city shall pay the tuition, fees and text/workbooks. The costs shall not exceed the normal tuition charge of state-supported institutions.
3. There is a limitation of fifteen (15) semester hours or one (1) technical vocational course per calendar year. "Testing out" of courses will be credited credit hour for credit hour toward this limit.
4. The office of Human Resources will maintain a record of course credits.

If the employee leaves the city prior to completing one year of service, following the completion of the last course, then the total cost of all classes taken within that one year period of time must be reimbursed to the city. To receive full payment of tuition, employees are required to work six (6) months for every ten (10) semester hours of tuition paid. If an employee voluntarily leaves employment with the city without meeting this commitment, a prorated portion of the paid tuition will be withheld from their final paycheck.

The employee is responsible for providing the office of Human Resources a certified copy of the official transcript showing the final grade and/or credits for any reimbursed course within forty-five (45) days of completion of the course. Attending classes will be restricted to off-duty hours except as approved by the Mayor. Classes taken are not to interfere with the normal performance of the employee's duties.

Application process:

1. The employee must make their request in writing to their immediate supervisor prior to enrolling and provide a copy to the office of Human Resources. This request should include the course title, institution costs and any other pertinent information.
2. The application must be approved by the employee's Department Head, it is forwarded to the office Human Resources to determine the total hours taken to-date for that calendar year, and sent to the Mayor for final approval.
3. If approved, a purchase order will be prepared and forwarded to the school for payment. Reimbursement for textbooks requires a receipt from the employee, and may be submitted on a regular reimbursement form.
4. This application process shall apply for each subsequent course taken. This policy is not part of any employment contract and the terms may be changed at the discretion of the City Council.

J. Wellness and information program The city of Sherwood Human Resources Department will make efforts to assist employees in improving and maintaining their personal well-being by offering assistance to employees in several areas. The office of Human Resources in cooperation with all Department Heads, the Mayor, and area businesses will arrange for the following services at no cost to employees when available:

Annual flu shots
Hepatitis B vaccination series
Reduced employee rates for use of the Bill Harmon Recreation Center
Drug, alcohol and domestic or elder abuse referrals

Child immunizations, or referrals to low cost or free immunization providers
Cholesterol screening, at a reduced cost depending on available providers
Health and wellness related literature
Career planning assistance
Financial and tax planning information and referrals for additional assistance
Additional job-related training upon approval of Department Heads

Miscellaneous information

A. Policy statement The city of Sherwood possesses the sole right to operate and manage the affairs of the city.

B. Severability Should any of the provisions of these policies be determined contrary to federal, state, or local law, the remaining provisions of the policies shall remain in full force and effect. To the extent any law provides additional or different benefits or rights to employees, the provisions of these policies shall be deemed to include those statements of law.

C. Change of address If an employee changes his/her home address or telephone number, the employee should notify the office of Human Resources of this change so personnel files can be kept current. This is important in case the city must mail the employee any information it believes the employee will need, such as "withholding" statements for the employee's income taxes. Also, if there is any change in the employee's marital status, the employee should report it to Human Resources to ensure that potential eligibility for benefits can be communicated in a timely manner.

ACKNOWLEDGMENT

I acknowledge that I have received a copy of the city of Sherwood Policy Manual.

This handbook contains policies, practices and regulations which I have read, understand and agree to comply with during my employment with the city of Sherwood.

This handbook is not intended to create any contractual or other legal rights. It does not alter the city's at-will employment policy nor does it create an employment contract for any period of time.

I further understand that I will be responsible for complying with future changes in such policies, practices and regulations communicated to employees from time to time, whether or not I have signed an acknowledgment of such changes.

Employee Signature

Date

Printed Name

FILE IN PERSONNEL RECORD WHEN COMPLETED

Orientation given by

Version 04/28/97 of Policy Manual received

2.52.07 Salary increase for two positions There is hereby appropriated \$3,000 from the General Fund to the Salaries line item to give the following raises. The Public Works Director, the Assistant Director of Public Works and the Human Resources Director's salaries shall each be increased by \$1,000. (Ord. No. 1325, Sec. 1.)

2.52.08 Personnel Commission created

- A. There is hereby created a Personnel Commission for all personnel not covered by Civil Service for the City of Sherwood, Arkansas; consisting of three aldermen and two residents of the City of Sherwood.
- B. Said Personnel Commission shall act in an advisory capacity and may act on any personnel problems that it may deem necessary.
- C.
 - 1. The three aldermen serve on said commission until the expiration of their term of office and the senior alderman shall be chairman and if he declines; then the Commission shall determine the chairman.
 - 2. The two residents shall serve for two (2) and four (4) year terms and the initial terms shall be determined by lot and the residents' terms shall expire on December 31, of the year of expiration of their terms. The terms for new resident appointees shall be for four (4) years.

- D. Said members of the Commission shall be appointed by the Mayor and confirmed by a majority of the City Council and in the event there is a vacancy then the successor shall be filled in like manner for the expiration of the term of the vacancy.
- E. The Personnel Commission shall be the final procedure on any grievance matter of an employee and in the event that the person filing the grievance is not satisfied with the decision of the Personnel Commission then the employee shall appeal directly to the proper Court. (Ord. No. 648, Secs. 1-5.)

CHAPTER 2.56

CITY POLICY MANUAL ADOPTED BY REFERENCE

Sections:

- 2.56.01 City Policy Manual adopted by reference
- 2.56.02 Changes to policy

2.56.01 City Policy Manual adopted by reference The City Policy Manual, attached hereto as Exhibit 1 and incorporated herein by reference as if set out word for word, is hereby adopted. (Ord. No. 1340, Sec. 1.)

2.56.02 Changes to policy

- A. Based on the analysis and recommendations of the Office of Human Resources, we need to make changes to our current City Policy Manual.
- B. The Mayor shall be granted the latitude to make whatever modifications, or adjustments she deems necessary for the fair implementation of the policies in day-to-day practice.
- C. The attached City policy Manual recommendations are hereby approved for implementation on November 1, 2007. (Ord. No. 1748, Secs. 1-3.)

CHAPTER 2.60

ROLL CALL VOTES FOR ALL

COMMISSIONS, BOARDS AND COMMITTEES

Sections:

- 2.60.01 Authorized
- 2.60.02 Appointments

2.60.01 Authorized All votes by boards, commissions or committees shall be by roll call vote only, and the chairman shall vote unless State Statutes provide otherwise. (Ord. No. 674, Sec. 1.)

2.60.02 Appointments All nominations for any appointment to any board or commission for the city of Sherwood that are made either by the Mayor or Aldermen shall be filed with the City Clerk by noon Thursday, preceding the regular City Council meetings. (Ord. No. 1025, Sec. 1.)

CHAPTER 2.64

ADVERTISING AND PROMOTION COMMISSION CREATED

Sections:

2.64.01	Commission is created
2.64.02	Director
2.64.03	Eligibility options
2.64.04	New positions
2.64.05	Commission is added to governed commissions

2.64.01 Commission is created There is hereby created the city of Sherwood, Arkansas, Advertising and Promotion Commission. The Commission shall have the powers and duties prescribed by 1965 Ark. Acts No. 185 as now or hereafter amended, 1989 Ark. Acts Nos. 626 and 650 and 1991 Ark. Act 726, and other applicable laws. The Commission shall be composed of seven (7) members as follows:

- A. Four (4) members shall be owners or managers of businesses in the tourism industry, at least three (3) of whom shall be owners or managers of hotels, motels or restaurants and all of whom shall be appointed by the Council of the city (the "Council") for staggered terms of four (4) years; and
- B. Two (2) members of the Commission shall be members of the Council, and selected by the Council; and
- C. One (1) member shall be from the public at large and shall be nominated by the Mayor of the city and approved by the Council for a term of four (4) years. The four (4) tourism industry representatives appointed by the Council shall, at the first meeting of the Commission, draw lots for terms so that:
 1. One (1) of the members will serve for a term of one (1) year;
 2. One (1) shall serve for a term of two (2) years;
 3. One (1) shall serve for a term of three (3) years; and
 4. One (1) shall serve for a term of four (4) years. (Ord. No. 1021, Sec. 1.)

2.64.02 Director There is created the position of Director and one other employee position. The Director shall be appointed by and serve at the discretion of the Mayor, in accordance with Arkansas Code 14-42-110. (Ord. No. 1162, Sec. 2.)

2.64.03 Eligibility options

- A. The eligibility options to serve on the Advertising and Promotion Commission that are set forth in Act 913 of 1997 are hereby adopted. (Ord. No. 1338, Sec. 1.)
- B. Pursuant to A.C.A. 26-75-605, owners or managers of the tourism industry shall be appointed to serve on the Advertising and Promotion Commission. The city may, by ordinance, agree to allow membership on the Commission by individuals of the tourism industry who are not residents within the confines of the municipality however, are residents of the county in which the municipality is located. (Ord. No. 1857, Sec. 1.)
- C. The city of Sherwood hereby adopts the waiver granted in said statute and will allow the appointment of owners or managers of the tourism industry as members of the Advertising and Promotion Commission that do not reside in the city of Sherwood. Said members must however be residents of Pulaski County, Arkansas. (Ord. No. 1857, Sec. 2.)

2.64.04 New positions

- A. A new position of Maintenance Worker is hereby created in the A&P Department. The Budget Ordinance shall be amended to transfer \$8,031.00 from the General Fund to the A&P Department. (Ord. No. 1345, Secs. 1-2.)
- B. One new position of Park Maintenance Generalist 1, is hereby created in the A&P Department. The budget ordinance shall be amended to transfer \$23,170 from General Fund to the A&P Department. (Ord. No. 1635, Secs. 1-2.)
- C. One new position of Assistant Director of A&P is hereby created in the A&P Department. The budget ordinance shall be amended to transfer \$55,214.64 from General Fund to the A&P Department. (Ord. No. 1728, Secs. 1-2.)

2.64.05 Commission is added to governed commissions

- A. Ord. No. 856 set forth attendance requirements for members of commissions and committees organized by the city of Sherwood.
- B. The Advertising and Promotions Commission is hereby added to the governed committees and commissions of said ordinance. (Ord. No. 1539, Secs. 1-2.)

CHAPTER 2.68

SENIOR CITIZENS' DEPARTMENT CREATED

Sections:

- 2.68.01 Senior Citizens' Department created
- 2.68.02 Two positions created
- 2.68.03 Mayor will appoint director
- 2.68.04 New positions created
- 2.68.05 Budget Ordinance

2.68.01 Senior Citizens Department created The Senior Citizens' Department is hereby created with the city of Sherwood. The Senior Citizens' Department shall be responsible for administering and serving the needs of the senior citizens of Sherwood. (Ord. No. 1323, Sec. 1.)

2.68.02 Two positions created Two positions shall be transferred from the Parks and Recreation Department to the Senior Citizens Department, one (1) Senior Citizens Coordinator and one (1) Driver. (Ord. No. 1323, Sec. 2.)

2.68.03 Mayor will appoint director In accordance with A.C.A. 14-42-110, the Mayor will appoint a Department Director for the Senior Citizens Department. The Director’s salary will be adjusted by the Mayor. The Driver will be reclassified to a Senior Citizens Assistant. (Ord. No. 1323, Sec. 3.)

2.68.04 Driver/Maintenance Worker position created There is to be created a Driver/Maintenance Worker (Position #20-05) within the Senior Citizens Department. (Ord. No. 1323, Sec. 1.)

A new position of Clerk/Maintenance is hereby created in the Senior citizens Department. The Budget ordinance shall be amended to transfer \$13,982.00 from the General Fund to the Senior Citizens Department. Salary - \$12,109; FICA - \$926; Insurance - \$947; Total - \$13,982. (Ord. No. 1481, Secs. 1-2.)

2.68.05 Budget Ordinance The 1997 Budget Ordinance shall be amended to add \$21,471 to the Senior Citizens Department from the General Fund. (Ord. No. 1324, Sec. 2.)

CHAPTER 2.72

DATA PROCESSING DEPARTMENT CREATED

Sections:

2.72.01 Department created

2.72.01 Department created There is hereby created the Data Processing Department and a position for a Department Head. There is appropriated the sum of \$40,281.71 from the General Fund for the salary and related expenses for said department head. The Budget Ordinance is amended accordingly. (Ord. No. 1332, Secs. 1-2.)

CHAPTER 2.76

INDEPENDENT CANDIDATES FOR MUNICIPAL OFFICE

Sections:

2.76.01 Procedures

- 2.76.02 Amendment of Ord. No. 751
- 2.76.03 Petition must be filed
- 2.76.04 Publication

2.76.01 Procedures Act 645 of 1997 of the Arkansas Legislature has set out the procedures for nominations as independent candidates for municipal offices and said act is incorporated herein. (Ord. No. 1377, Sec. 1.)

2.76.02 Amendment of Ord. No. 751 Ordinance No. 751 is amended to be in accordance with Act 645. (Ord. No. 1377, Sec. 2.)

2.76.03 Petition must be filed Independent candidates for municipal office within the city of Sherwood are hereby required to file petitions for nominations as independent candidates with the Pulaski County Clerk. Said petitions are to be filed no later than noon on the day before the preferential primary election. (Ord. No. 1377, Sec. 3.)

2.76.04 Publication This ordinance is to be published for two consecutive weeks immediately following the adoption of this ordinance in an area newspaper having general circulation in Sherwood. (Ord. No. 1377, Sec. 4.)

CHAPTER 2.80

OFFICIALS CONDUCTING BUSINESS WITH CITY

Sections:

- 2.80.01 State statute
- 2.80.02 Business permitted

2.80.01 State statute A.C.A. 14-42-107 prohibits any elected city officials, spouses of elected city officials, or city employees, from having any interests, directly or indirectly in contracts for supplies, equipment or services with the city of Sherwood, Arkansas, unless an ordinance is passed permitting members to conduct business with the city and to prescribe the extent of that authority. (Ord. No. 1659, Sec. 1.)

2.80.02 Business permitted This ordinance shall permit contracts between elected city officials, spouses of elected city officials, or city employees, and the city provided that both the elected officials and spouses of elected officials and city employees, disclose in writing to the City Clerk the business sought or service to be provided. A new disclosure will be required for each contract sought whether or not granted by the city. (Ord. No. 1659, Sec. 2.)

CHAPTER 2.84

FILING DEADLINES

Sections:

2.84.01 Filing deadlines

2.84.01 Filing deadlines

- A. Ord. No. 1628 established the filing deadline for the 2004 election year.
- B. Pursuant to Act 1104 of 2003, Ord. No. 1628 is amended to establish that no later than noon on the day before the preferential primary election and no earlier than 20 days prior to the preferential primary as the filing period for all future elections for all municipal offices open for election. (Ord. No. 1686, Secs. 1-2.)

CHAPTER 2.88

ADVERTISING AND PROMOTION COMMISSION TAX COLLECTION

AND ENFORCEMENT

Sections:

- 2.88.01 Title; purpose
- 2.88.02 Application
- 2.88.03 Definitions
- 2.88.04 Administration and regulation
- 2.88.05 Permit
- 2.88.06 Application for permit
- 2.88.07 Permits required and expiration
- 2.88.08 Discontinuance of business-unpaid taxes
- 2.88.09 Revocation or suspension; renewal
- 2.88.10 Preparation or returns; payment
- 2.88.11 Discount for prompt payment

- 2.88.12 Additional penalties and tax
- 2.88.13 Examinations and investigations
- 2.88.14 Time limitations
- 2.88.15 Notice requirements
- 2.88.16 Assessment and collection of taxes
- 2.88.17 Proposed assessments
- 2.88.18 Taxpayer relief
- 2.88.19 Hearing on proposed assessment
- 2.88.20 Judicial relief
- 2.88.21 Certificates of indebtedness and execution
- 2.88.22 Injunction proceedings
- 2.88.23 Settlement or compromise of liability
- 2.88.24 Release of property from lien
- 2.88.25 Violations
- 2.88.26 Criminal penalties

2.88.01 Title; purpose

- A. This ordinance shall be known and may be cited as the Sherwood Advertising and Promotions Gross Receipt Tax Collection and Enforcement Ordinance.
- B. The purpose of this ordinance is to provide the procedures for the enforcement and collection of taxes levied and administered by the city with the adoption of Ord. No. 905 and following ordinances as subsequently amended. (Ord. No. 1909, Sec. 1.)

2.88.02 Application The provisions of this ordinance shall be cumulative to the Arkansas Gross Receipt Tax of 1941, A.C.A. 26-52-101 and following and the Arkansas Tax Procedure Act Section 26-18-101 and following. The provisions of which so far as is practicable, shall be deemed incorporated herein as applicable with respect to the enforcement and collection of the A&P tax. (Ord. No. 1909, Sec. 2.)

2.88.03 Definitions The following words and phrases, except where the context clearly indicates the application of a different meaning when used in these rules shall have the following meaning:

A&P tax means the gross receipt tax levied by the city pursuant to Act 185 of 1965 and as subsequent amended.

Assessment means a tax is assessed when it is recorded as a liability of a taxpayer on the Commission record. The assessment becomes a first assessment following the decision of the Commission or a hearing officer if the assessment is protested.

Business entity means a corporation, association, partnership, joint venture, limited liability company, limited partnership, trust, or other legal business entity.

Commission means the city of Sherwood Advertising and Promotion Commission and any represented designated by the Commission to perform the functions hereunder.

City means the city of Sherwood, Arkansas.

Delinquency date means the A&P tax is delinquent and subject to penalty on the first day of the month following the month it was due.

Due date means the A&P tax is due no later than the 20th calendar day of the month following the month the tax is imposed on gross receipts.

Person means any natural person, firm, corporation or other business entity.

Taxpayer means any person liable to remit the A&P tax.
(Ord. No. 1909, Sec. 3.)

2.88.04 Administration and regulation The administration of this ordinance is vested in the Advertising and Promotion Commission hereafter “Commission” and the “Commission” shall promulgate rules and regulations and prescribe all forms as are necessary or required for enforcement and collections of the A&P tax. (Ord. No. 1909, Sec. 4.)

2.88.05 Permit

- A. It shall be unlawful for any person to transact in the city a business which is subject to the A&P tax prior to the issuance and receipt of an A&P tax permit from the city.
- B. A separate A&P tax permit must be obtained from the city for each location that a person conducts business that is subject to the A&P tax.
(Ord. No. 1909, Sec. 5.)

2.88.06 Application for permit Any person transacting business in the city that is subject to the A&P tax shall file with the city an application for an A&P permit to conduct that business. The form and content of the application shall be as prescribed by the Commission from time to time. The city of Sherwood City Clerk shall maintain a list of all applicants for the A&P tax permits and provide that information to the Commission. (Ord. No. 1909, Sec. 6.)

2.88.07 Permits required and expiration

- A. The A&P tax permit shall not be an assignable and shall be valid only for the person in its name is issued for the location thereon designated.
- B. The A&P tax permit shall, at all times, be conspicuously displayed at the location thereon designated.
- C. The A&P permit shall expire at the time of cessation of the business of the taxpayer at the location designated thereon.
- D. It shall be unlawful for any person subject to the A&P tax to transact business within the city when their A&P permit is expired. (Ord. No. 1909, Sec. 7.)

2.88.08 Discontinuance of business-unpaid taxes

- A. Any taxpayer operating under the A&P permit upon discontinuance of the business at the location designated thereon shall return the A&P permit to the city for cancellation together with any remittance of any unpaid and accrued A&P taxes.
- B. Failure to surrender the A&P permit and pay any and all A&P taxes shall be sufficient to cause from the Commission to refuse the issuance of any A&P permit in the future to the taxpayer.
- C. In the case of the sale of any business that is subject to the A&P tax, the A&P tax shall be deemed to be due and payable at the time of the sale of fixtures and equipment incident to the business and shall constitute a lien against the said fixtures and equipment in the hands of the purchaser of the business until all A&P taxes have been paid. (Ord. No. 1909, Sec. 8.)

2.88.09 Revocation or suspension; renewal

- A. When a person whom the A&P tax permit has been issued fails to comply with any provision of this ordinance, including any rules or regulation prescribed by the Commission from time to time, the Commission shall give notice to the person of an intention to revoke the A&P permit.
- B. The person may within ten (10) consecutive days after receipt of the notice of intent to revoke the A&P tax permit apply to the Commission for a hearing.

- C. The hearing shall be conducted at a time and place to be designated by the Commission before such person as designated by the Commission to conduct such hearing and the taxpayer shall be entitled to introduce testimony and be represented by counsel and the designated representative of the Commission shall determine at the hearing whether the taxpayer's A&P tax permit should be revoked.
- D. Failure of a person to appear at the hearing shall be grounds for the Commission, or acting through its designated representative, to revoke the taxpayers A&P tax permit.
- E. The person shall be entitled within thirty (30) consecutive days from the day of the revocation of the taxpayer's permit to appeal to the Circuit Court of Pulaski County, Arkansas, where the action shall be tried de novo.
- F. It shall be unlawful for any person subject to the A&P tax to transact business within the city when their A&P tax permit is revoked or suspended.
- G. Any revoked or suspended permit may be removed upon the filing of proper returns and payment of all A&P taxes due or removal of any other causes of revocation or suspension. (Ord. No. 1909, Sec. 9.)

2.88.10 Preparation or returns; payment

- A. The A&P tax shall be due and payable as of the 1st day of each calendar month by the person liable for the payment of the A&P tax (taxpayer) and shall be deemed delinquent if not paid on or before the 1st day of the next calendar month.
- B. It shall be the duty of the taxpayer on or before the 20th of each calendar month to deliver to the city, upon forms prescribed and furnished by the Commission, returns under oath showing the total combined gross receipts or gross proceeds which are subject to the A&P tax for the preceding calendar month and the amount of the tax due. The tax due shall be remitted with the return.
- C. The returns shall contain such further information as the Commission may require and, once the taxpayer has become liable for the payment of the A&P tax, the taxpayer must continue to file a return even though no tax may be due until such time as the taxpayer surrenders the A&P tax permit.
- D. If not paid on or before the 20th day of each calendar month, the full amount of the A&P tax shall be due from that date, provided, however, no penalty for delinquency shall be assessed if payment thereof is made on or before the 1st day of the calendar month next following. (Ord. No. 1909, Sec. 10.)

2.88.11 Discount for prompt payment

- A. If the return is delivered on or before the 20th day of the calendar month following the month the tax is imposed on gross receipts the taxpayer may remit therewith to the Commission by payment to the city ninety-eight percent (98%) of the A&P tax due or before the 20th of the calendar month. A return is “delivered” on the date it is postmarked if it delivered by the U.S. Postal Service or that they hand deliver to the City Clerk’s office.
- B. Failure of the taxpayer to remit the A&P tax on or before the 20th of each calendar month shall cause the taxpayer to forfeit his claim to the discount and the taxpayer must remit to the Commission one hundred percent (100%) of the amount of the A&P tax due plus any penalty and interest accrued thereon. (Ord. No. 1909, Sec. 11.)

2.88.12 Additional penalties and tax If the taxpayer shall fail to comply with certain provisions of this ordinance, then the following penalties and additions to the tax shall be applicable:

- A. In the case the taxpayer’s failure to file the A&P tax return and pay the tax due on or before the delinquency date, determined with regard to any extension of time of filing thereof, unless it is shown that the failure is due to reasonable cause and not to willful neglect, there shall be added to the amount required to be shown as tax on the A&P tax return five percent (5%) of the A&P tax if the failure is not more than one (1) month past the delinquency date, with an additional five percent (5%) for each additional month or fraction thereof during which the failure continues, not to exceed thirty-five percent (35%) in the aggregate.
- B. In addition to any penalty assessed hereunder, simple interest on any paid A&P tax shall be assessed at the rate of ten percent (10%) per annum from the delinquency date. (Ord. No. 1909, Sec. 12.)

2.88.13 Examinations and investigations

- A. In the administrations of this ordinance, the Commission or its designated representative for the purpose of determining the accuracy of a return of fixing any liability hereunder may make an examination or investigation of the place of business, the tangible personal property, equipment and facilities and the books, records, and papers, vouchers, accounts, and documents of any taxpayer or other person. Every taxpayer or other person and his agents and employees shall exhibit to the Commission or its designated representative these places and items and facilitate any examination or investigation.

- B. No taxpayer shall be subjected to unnecessary examination or investigation and only one (1) inspection of a taxpayer's books or accounts shall be made for each taxable year unless the taxpayer requests otherwise or unless the Commission, after investigation, notifies the taxpayer in writing additional inspection is necessary.
- C. When conducting an investigation or an audit of any taxpayer, the Commission or its designated representative may, in its discretion, examine the records and files of any person except where privileged, by law, any other businesses, institution, financial institution, the records of any state agencies, agency of the United States government or other agency of any other state where permitted by agreement or reciprocity.
- D. The Commission or its designated representative may compel production of these records by summons; a summons may be served directly by the Commission or its designated representatives.
- E. In the administration of this ordinance, the Commission or its designated representative may
 - 1. Administer oaths, conduct hearings and compel by summons the attendance of witnesses, testimony and the production of any books, papers or other data of the taxpayer or
 - 2. Examine under oath any person regarding the business of any taxpayer concerning any matter incident to the administration of this ordinance.
 - 3. The fees of witnesses required by the Commission or its designated representative to attend any hearing and shall be the same as those allowed to a witness appearing before Circuit Courts of this state. The fees shall be paid in the manner provided for the payment of other expenses incident of the administration thereof under the Arkansas Rules of Civil Procedure.
- F. The investigation may extend to any person that the Commission or its designated representative determines has access to information which may be relevant to the examination or investigation.
- G. When any summons requiring the production of records as described herein, of a third party record keeper, written notice of the summons shall be mailed to the taxpayer that his records are being summoned, at least fourteen (14) days prior to the date fixed in the summons as the day for the examination of the records.

- H. Notice to the taxpayer required by this section is sufficient if it is mailed by certified mail to the last address on record with the Commission or city.
- I. When the Commission or its designated representatives have the power to issue summons for its own investigation or auditing purposes, then the Commission shall honor any reasonable request by any taxpayer to issue a summons on the taxpayer's behalf.
- J. The Commission or the taxpayer may apply to the court of competent jurisdiction in Pulaski County for an order compelling the production of the summoned records.
- K. Failure to comply with the order of the court for the production of records may be punished by the court as for contempt.
- L. The cost of producing records of a third party required by a summons shall be borne by the taxpayer if he requests the summons to be issued.
- M. If the Commission or its designated representatives initiate its summons for third party records, the Commission shall bear the reasonable cost of producing the record. The Commission or its designated representative may late assess the cost against any delinquent or deficient taxpayer as determined by the records. (Ord. No. 1909, Sec. 13.)

2.88.14 Time limitations

- A. Except as otherwise provided in this ordinance, no assessment of the A&P tax shall be made after the expiration of three (3) years from the date the return was required to be filed or the date the return was filed, whichever period expires later. The Commission shall not begin court proceedings after the expiration of the three (3) year period unless there has been a pervious assessment for the collection of the tax.
- B. Upon written agreement of the Commission and the taxpayer, the time within the Commission may make a final assessment as provided herein may be extended to a date mutually agreed upon in the written agreement.
- C. Where, before the expiration of the time prescribed for the assessment of the tax or extension thereof, both the Commission and the taxpayer have consented in writing to an assessment after that time, and then the A&P tax may be assessed at any time prior to the expiration of the time agreed.

- D. In the case of a fraudulent return or failure to file a report or return required hereunder, the Commission may compute, determine, and assess the estimated amount of A&P tax due from any information in its possession or may begin an action in court for the collection of the tax without assessment at any time.
- E. Whenever a taxpayer requests an extension of time for filing any return required hereunder, the limitation of time for assessing any tax shall be extended for a like period.
- F. Where the assessment of the A&P tax has been made within the period for limitation properly applicable thereof, the A&P tax may be collected by levy or proceeding in court, but only if the levy is made or the proceeding is begun within ten (10) years after the date of the assessment of the tax.
- G. No person shall be prosecuted, tried, or punished for any of the various criminal offenses arising under the provisions of this ordinance unless the indictment of the taxpayer is instituted within six (6) years after the Commission of the offense. (Ord. No. 1909, Sec. 14.)

2.88.15 Notice requirements

- A. The Commission shall give a taxpayer notice of any assessment, demand, decision, or hearing before the Commission or its designated representative, which directly involves the taxpayer.
- B. All notices required to be given by the Commission to a taxpayer shall either served by personal service or sent by mail to the taxpayer's last address of record with the Commission. If the mail is returned unclaimed or refused, then proper notice shall have been served and given and the Commission may take any action permitted by this ordinance or otherwise by law.
- C. All notices of final assessment hereunder shall be sent by certified mail, return receipt requested.
- D. The taxpayer when giving notice to the Commission shall give notice either by mail or by personal service on the Commission through the City Clerk's office. The notice the taxpayer gives shall be effective when postmarked or in any case of personal service when so served.
- E. The Commission and taxpayer, may by written agreement, provide for any other reasonable means of giving notice.
- F. All notices shall be in writing. (Ord. No. 1909, Sec. 15.)

2.88.16 Assessment and collection of taxes

- A. The Commission or its designated representative are authorized and required to make the inquiries, determinations, and assessments of the A&P tax including interest, additions to taxes and assessable penalties imposed hereby.
- B. The assessment shall be made by recording the liability of the taxpayer in the office of the City Clerk's office in accordance with rules and regulations prescribed by the Commission.
- C. Upon request by the taxpayer, the Commission shall furnish the taxpayer a copy of the record of the assessment.
- D. The Commission shall collect all A&P taxes imposed by law.
- E. As soon as practicable after making the assessment of the A&P tax, the Commission shall give notice to each person liable for the unpaid tax stating the amount and demanding payment within ten (10) days.
- F. Upon receipt of notification and demand from the Commission, the person liable for the tax penalty shall pay the stated amount including any interest, additions to tax and assessable penalties at the place and time as stated in the notice and demand. (Ord. No. 1909, Sec. 16.)

2.88.17 Proposed assessments

- A. If any taxpayer fails to file any return as required hereunder, the Commission, from any information in its possession or obtainable by it, may determine the correct amount of tax for the taxable period. If a return has been filed, the Commission or its designated representatives shall examine the return and make any audit or investigation that is considered necessary.
- B. When no return has been filed and the Commission determines that there is an A&P tax due for the taxable period or when a return has been filed and the Commission determines that the A&P tax disclosed by the return is less than the tax disclosed by its examination, the Commission shall propose the assessment of additional tax plus penalties as the case may be and shall give notice of the proposed assessment to the taxpayer. The notice shall explain the basis for the proposed assessment of and shall state that a final assessment, as provided for herein, will be made if the taxpayer does not protest such proposed assessment as provided hereby. The taxpayer does not have to protest the proposed assessment to later be entitled to exercise the right to seek judicial review of the assessment.

- C. Any demand for additional payment of the A&P tax which is made as the result of verification of a mathematical error on a return shall not be deemed to be a proposed assessment under the provisions of this section and shall not be subject to the hearing or appeal provisions of this section. (Ord. No. 1909, Sec. 17.)

2.88.18 Taxpayer relief

- A. Any taxpayer who wishes to seek administrative relief from any proposed assessment of taxes or proposed notice of disallowance of a claim for refund by the Commission shall follow the procedures provided by this section.
- B. A taxpayer may at his option either request the Commission to consider his request for relief solely upon written documents furnished by the taxpayer or upon the written documents and any evidence presented by the taxpayer at the hearing.
- C. A taxpayer who requests the Commission to render its decision based on written documents is not entitled by law to any other administrative hearing prior to the Commission's rendering of its decision and, if necessary, the issuing of a final assessment and demand for payment or issuing of a certificate of indebtedness.
- D. Within thirty (30) days after the service of notice of the proposed assessment, the taxpayer may file with the Commission a protest under oath signed by himself or his authorized agent setting forth the taxpayer's reasons for opposing the assessment.
- E. The Commission may, at its discretion, extend the time for filing a protest for any period of time not to exceed an additional ninety-day period. (Ord. No. 1909, Sec. 18.)

2.88.19 Hearing on proposed assessment

- A. The Commission or the Commission's designated representative shall serve as the hearing officer to review all written protests submitted by taxpayers, hold all hearings, and make written findings as to the applicability of the proposed assessment.
- B. Decisions of the hearing officer shall be final unless revised by the Commission.
- C. The hearing on written and oral protests and determinations made by the hearing officer shall not be subject to the provisions of the Arkansas Administrative Procedure Act 25-15-201, et seq.

- D. The actual hearing on the written protest shall be held at a location to be determined by the Commission.
- E. The Commission or the hearing officer shall set the time and place for the hearing on the written protest and shall give the taxpayer reasonable notice thereof.
- F. At the hearing, the taxpayer may be represented by an authorized representative and may present evidence in support of his position.
- G. After the hearing, the hearing officer shall render his or her decision or the Commission shall render his or her decision in writing and shall serve copies upon both the taxpayer and the Commission.
- H. If the proposed assessment is sustained, in whole or part, the taxpayer may request in writing, within twenty (20) days of the mailing of the decision, that the Commission revise the decision of the designated hearing officer if not heard by the Commission.
- I. If the Commission refuses to make a revision or if the taxpayer does not make a request for revision, then the final assessment shall be made upon final determination of the designated representative hearing officer by the Commission.
- J. A taxpayer may seek relief from the final decision of the designated hearing officer or the Commission on a final assessment of a tax deficiency by following the procedure set forth in 2.88.20.
- K. In addition to the hearing procedures set out in subsections (A – C) of this section, the Commission may hold administrative hearings by telephone, video conference, or other electronic means if the Commission or designated hearing officer determines that the conducting in such a manner:
 - 1. Is in the best interest of the taxpayer and the Commission;
 - 2. Is agreed to by the parties;
 - 3. Is not fiscally unsound or administratively burdensome; and
 - 4. Is in compliance with state law;
- L. The Commission is authorized to contract with third parties for all services necessary to conduct hearings by telephone, video, or other electronic means.
- M. Any person who enters into a contract with the Commission to provide services necessary to conduct hearings by telephone, video, or other electronic means shall be subject to the laws of the state of Arkansas. (Ord. No. 1909, Sec. 19.)

2.88.20 Judicial relief

- A. Within thirty (30) days after the issuance and services on the taxpayer of the notice and demand for payment of a deficiency in tax established by
1. An audit determination that is not protested by the taxpayer; or
 2. A final determination of the hearing officer or the Commission, a taxpayer may seek judicial relief from the final determination by either.
- B. Within one (1) year of the date of the final assessment, paying the entire amount of the A&P tax due, including any interest or penalties, for any taxable period or periods covered by the assessment and filing suit to recover that amount within one (1) year of the date of payment. The Commission may proceed with collection activities including the filing of a certificate of indebtedness as authorized hereunder, within thirty (30) days of the issuance of the final assessment for any assessed but unpaid A&P taxes, penalties, or interest owed by the taxpayer for other taxable periods covered by the final assessment, while the suit for refund is being pursued by the taxpayer for the other taxable periods covered by the final assessment; or
- C. Within thirty (30) days of the issuance and service on the taxpayer of the notice and demand for payment, filing with the Commission a bond in double the amount of the tax deficiency due and by filing suit within thirty (30) days thereafter to stay the effect of the Commission's determination.
- D. The bond shall be subject to the condition that the taxpayer shall file suit within thirty (30) days after filing the bond shall faithfully and diligently prosecute the suit to a final determination and shall pay any deficiency found by the court to be due and court cost assessed against that entity.
- E. A taxpayer failure to file suit, diligently prosecute the suit, or pay any tax deficiency and court costs, as required by subsection (A) of this section, shall result in the forfeiture of the bond in the amount of the assessment and assessed court costs.
- F. Jurisdiction for a suit to contest a determination of the Commission under this section shall be in the Circuit Court of Pulaski County, where the matter shall be tried do novo.

- G. The methods provided in this section shall be the sole alternative methods for seeking relief from a written decision of the Commission or hearing officer establishing a deficiency in the A&P tax. No injunction shall issue to stay proceedings or collection of the A&P collection.
- H. If any court proceedings under this section, the prevailing party may be awarded a judgment and court costs. (Ord. No. 1909, Sec. 20.)

2.88.21 Certificates of indebtedness and execution

- A. If a taxpayer does not timely and properly pursue his remedies seeking relief from the decision of the Commission or its designated hearing officer and a final assessment against the taxpayer or if the taxpayer fails to pay the deficiency assessed upon notice and demand, then the Commission through its authorized representative shall as soon as practicable thereafter, issue to the Circuit Clerk of any county of the state in which the taxpayer's business is located a certificate of indebtedness certifying that the person or entity named therein is indebted to the Commission for the amount of tax established by the Commission as due.
- B. If a taxpayer has a delinquent A&P tax liability to the Commission of less than One Thousand Dollars (\$1,000.00), the Commission or its designated hearing officer may enter into an agreement with the taxpayer to allow the taxpayer to pay the delinquency in installments. The Commission or its designated hearing officer may choose not to issue a certificate of indebtedness during the period of the installment agreement if he determines that it is in the best interest of the Commission.
- C. The Circuit Clerk shall enter immediately upon the Circuit court judgment docket:
 1. The name of the delinquent taxpayer;
 2. The amount certified as being due;
 3. The name of the tax; and
 4. The date of entry upon the judgment docket.
- D. The entry of the certificate of indebtedness shall have the same force and effect as the entry of a judgment rendered by the Circuit Court. This entry shall constitute the Commission's lien upon the title of any real and personal property of the taxpayer in the county where the certificate of indebtedness is recorded.
- E. This lien is in addition to any other lien existing in favor of the Commission to secure payment of taxes, applicable penalties and costs. The lien is superior to other liens of any type or character attaching to the property after the date of entry

of the certificate of indebtedness on the judgment docket. This lien is superior to all claims of unsecured creditors.

- F. The certificate of indebtedness authorized by this subsection shall continue in force for ten (10) years from the day of recording and shall automatically expire after the ten (10) year period has run. Actions on the lien on the certificate of indebtedness shall be commenced within ten (10) years after the date of recording of the certificate and not afterwards.
- G. After the entry of the certificate, the Circuit Clerk shall execute a Writ of Execution directed to the Commission authorizing the Commission to levy upon and against all real and personal property of the taxpayer.
- H. The Commission shall have all remedies and may take all proceedings for the collection of the tax, which may be taken for the recovering of a judgment law.
- I. The Writ shall be issued, served, and executed in the same manner as provided for the issuance and services of executions rendered by the Circuit Courts in this state except the Commission may act in the place of the County Sheriffs. Alternatively the Commission may utilize the services of the County Sheriff for this execution.
- J. The Commission shall have the authority for all liens either presently filed or filed after the passage of this ordinance.
- K. Nothing in this chapter shall preclude the Commission from resorting to any other means provided by law for collecting delinquent taxes.
- L. The issuance of a certificate of indebtedness, entry by Clerk, and levy of execution as provided in this section shall not constitute an election with respect to the collection of the tax.
- M. The taxes, fees, interest, and penalties imposed or levied hereby may be collected in the same way as a personal debt of the taxpayer.
- N. The Commission may sue to the same effect and extent as for the enforcement of a right of action for debt.
- O. All provisional remedies available in these actions are available to the Commission in the enforcement of the A&P tax.
- P. In addition to the remedies provided in subsection (B) and (C) of this section, the Commission may direct the Circuit Clerk to issue a Writ of Execution directed to the sheriff of any county authorizing the Sheriff to levy upon and against all real

and personal property of the taxpayer. The Writ shall be issued, served, and executed in the same manner as provided in the issuance and service of executions rendered by the Circuit Courts of this state. The Circuit Clerks and Sheriffs shall be entitled to receive the same fees provided by law in these matters. These fees shall be collected from the taxpayer by either the Commission or the sheriff in addition to the tax, penalties and interest included in the certificate of indebtedness. If the Sheriff is unable, after diligent effort to collect the tax, interest, penalties, and costs, the Commission may pay such fees as are properly shown to be due to the Clerk and sheriff.

- Q. The Commission may contract with persons inside or outside the state to help the Commission collect delinquencies of resident or nonresident taxpayers. (Ord. No. 1909, Sec. 21.)

2.88.22 Injunction proceedings When a return required hereunder has not been filed or does not furnish all the information required by the Commission or when the A&P taxes imposed by law have not been paid or when any required license or permit has not been secured, the Commission may institute and necessary action or proceeding in a court of competent jurisdiction in Pulaski County to enjoin the person or taxpayer from continuing operations until the report or return has been filed, required licenses or permits secured, or taxes paid as required. The injunction shall be issued without a bond being required by the Commission. (Ord. No. 1909, Sec. 22.)

2.88.23 Settlement or compromise of liability

- A. The Commission may enter into an agreement to compound, settle, or compromise any controversy relating to the A&P tax when:
1. The controversy is over the amount of tax due, or
 2. The inability to pay results from the insolvency of the taxpayer.
- B. The Commission may waive or remit the interest of penalty, or portion thereof, ordinarily accruing because of a taxpayer's failure to pay A&P tax within the statutory period allowed for its payment:
1. If the taxpayer's failure to pay the tax is satisfactorily explained to the Commission, or
 2. If the failure results from a mistake by the taxpayer of either law of the facts subjecting them to such tax, or
 3. If the inability to pay the interest or penalty results from the insolvency or bankruptcy of the taxpayer.

- C. In settling or compromising any controversy relating to the liability of a person from the A&P tax for any taxable period, the Commission is authorized to enter into a written closing agreement concerning liability. When the closing agreement is signed by the Commission, it shall be final and conclusive, and except upon a showing of fraud or misrepresentation of a material fact, not additional assessment or collection shall be made by the Commission and the taxpayer shall not institute any judicial proceedings to recover such liabilities as agreed to in the closing agreement.
- D. The Commission shall promulgate rules and regulations establishing guidelines for determining whether a proposed offer of compromise is adequate and is acceptable to resolve a tax dispute. (Ord. No. 1909, Sec. 23.)

2.88.24 Release of property from lien

- A. Upon written application by any person, the Commission may release any property from the lien imposed by any assessment, order, judgment, or certificate of indebtedness obtained by or from any levy made by it if:
 - 1. Either full payment is made to the Commission of the sum it considers adequate consideration for the release; or
 - 2. Adequate security deposit is made with the Commission to secure the payment of the debt evidenced by the lien.
- B. When the Commission determines that its assessment, certificate of indebtedness, or judgment is clouding the title of property because of an error in the description of properties or similarity in names, the Commission may issue a release without the payment of consideration.
- C. The Commission's release shall be given under its seal and filed in the office of the Circuit Clerk in the county in which the lien is filed, or it shall be recorded in any office in which conveyances of real estate shall be recorded. (Ord. No. 1909, Sec. 24.)

2.88.25 Violations Any person subject to the A&P tax who is transacting business with the city without a valid A&P tax permit shall be guilty of a violation which shall be punishable up to a Five Hundred Dollars (\$500.00) fine. Each day a person transacts business within the city without a valid A&P permit shall constitute a separate offense. (Ord. No. 1909, Sec. 25.)

2.88.26 Criminal penalties Sanctions for any taxpayer who willfully attempts to evade or defeat the payment of the A&P tax, or who assist any taxpayer to make a false or fraudulent report, return, statement, claim, application, or other instrument required by the Commission in connection with the A&P tax, or makes a false answer to any question from the Commission or its designated representative concerning the A&P tax, neglects to answer a subpoena to appear and answer questions about records for the A&P tax or, who acts, or fails to act in conformance with the provisions of the Arkansas Tax Procedure Act, as that act applies to the A&P tax, shall be subject to penalties set forth in the A.C.A. 26-18-101 through 105, 26-10-201 through 212 as they exist on the date of the passage of this ordinance or as they may be amended by the General Assembly and are in effect on the date of any such violation. (Ord. No. 1909, Sec. 26.)