

ORDINANCE NO. O-2005-25

AN ORDINANCE OF THE CITY OF HOLLYWOOD, FLORIDA, AMENDING VARIOUS PROVISIONS OF CHAPTER 41 OF THE CODE OF ORDINANCES RELATING TO THE SELF-INSURANCE PROGRAM IN ORDER TO UPDATE AND CLARIFY SAID CHAPTER.

WHEREAS, the staff of the City of Hollywood, Florida has recommended that the City Commission amend certain provisions of Chapter 41 of the Code of Ordinances relating to the City's Self-Insurance Program in order to update and/or clarify said Chapter;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA:

Section 1: That Chapter 41 of the Code of Ordinances is hereby amended to read as follows:

TITLE III: ADMINISTRATION

* * *

CHAPTER 41: SELF-INSURANCE PROGRAM

* * *

§ 41.02 RESERVED ~~ADOPTION OF PROCEDURAL MANUAL BY REFERENCE.~~

~~The manual as originally adopted pursuant to Ord. O-87-47 is hereby readopted in its entirety as the procedural guide for implementation of the program; however, to the extent of any inconsistency or conflict between the manual and terms of this chapter, the terms of this chapter shall, in such cases, be controlling. The manual may be amended by the Risk Manager and City Attorney, as necessary, to conform it to the terms of this chapter and controlling law.~~

(Coding: Words and figures underscored are additions to existing law; words and figures in ~~struck-through~~ type are deletions.)

§ 41.03 RISK MANAGER; POWERS AND DUTIES.

(A) The Risk Manager shall administer the risk management program on behalf of the City within the Office of Human Resources and Risk Management and is responsible for the following:

* * *

~~(B) The Risk Manager may purchase insurance policies or ancillary services for coverages not provided by the program; however, any such policy or ancillary services in excess of \$10,000 must have prior Commission approval prior to its purchase.~~

~~(B~~ C) The Risk Manager shall coordinate investigations of all claims pursuant to procedural guidelines. The Risk Manager ~~risk manager~~ shall coordinate the investigation of all litigated claims with the City Attorney and the City Attorney may expand or limit such investigations as needed or required by the litigation process.

~~(C~~ D) The Risk Manager shall furnish a quarterly written report to the Commission and to the Attorney on the status of the Self-Insurance Fund. The following shall be enumerated in the Risk Manager's written report: ~~the facts and summary of each claim;~~ a description of payments made from each of the funds maintained under the program, reserve amounts and fund balances.

~~(D~~ E) The Risk Manager shall submit annually to the Commission and the Attorney an independent claims audit and a written report on the program. Such written report shall include:

(1) Information ~~Underwriting~~ information as to the nature of the coverages accepted for self-insurance and those risks that are transferred to the insurance market;

* * *

~~(F) The Risk Manager shall give each participant the opportunity to comment on the premium determination for each plan within the program. On or before June 1 of each fiscal year, the Risk Manager will provide each participant in the program with a summary of premiums due for the next ensuing fiscal year. Unless deferred terms are offered by the Risk Manager, the premium will be due by the participant on the first day of the fiscal year. If the assets of the Self-Insurance Fund are insufficient to pay obligations due for the current fiscal year, the Risk Manager may assess premium loans against the participants. An individual participant's premium loans will be based on the ratios used for premium adjustments. The loans will be returned to the participants as offsets to premiums due within the following two fiscal years. The provisions contained in Sections 213 and 214 of the manual shall be applicable to carrying out the Risk Manager's responsibilities under this section.~~

§41.04 RESERVED DUTIES OF CITY ATTORNEY.

~~(A) (1) The City Attorney or his/her designees shall perform or supervise all legal services under the Program.~~

~~(2) As used herein **LEGAL SERVICES** shall include but not be limited to the defense or prosecution of all lawsuits and litigated workers' compensation claims; the negotiation of settlement agreements of all investigative claims (including workers' compensation claims) in excess of \$2,500, and negotiation of settlement agreements of all lawsuits and litigated workers' compensation claims.~~

~~(B) However, if the legal fees of an outside counsel representing the City exceed the total amount of \$25,000 on a litigation, then the City Attorney shall advise the City Commission of such fact and seek City Commission approval for any additional legal fees which may be necessary with respect to such litigation.~~

§ 41.05 SETTLEMENT OF CLAIMS

(A) *Risk Manager's authority.*

(1) The Risk Manager shall have the sole authority to settle any liability investigative claim on which suit has not been filed and any (including workers' compensation claim on which a petition for benefits has not been filed, claims) up to \$10,000.00 ~~\$5,000~~.

(2) The Risk Manager may settle any liability investigative claim on which suit has not been filed and any (including workers' compensation claim on which a petition for benefits has not been filed, claims) from \$10,000.01 ~~\$5,000~~ to \$20,000.00 ~~\$10,000~~ with prior written approval from the City Attorney only.

(3) The Risk Manager may settle any liability investigative claim on which suit has not been filed and any (including workers' compensation claim on which a petition for benefits has not been filed, claims) from \$20,000.01 ~~\$10,000~~ to \$25,000.00 with the prior written approvals from both the City Attorney and the City Manager only.

(4) The Risk Manager may settle any liability investigative claim on which suit has not been filed and any (including workers' compensation claim on which a petition for benefits has not been filed, claims) in excess of \$25,000.00 ~~\$25,000~~ with the prior written approvals from the City Attorney, the City Manager and the City Commission.

(5) Once suit is filed on a claim or a petition for benefits is filed ~~litigation~~ on a workers' compensation claim commences, the Risk Manager shall have no authority to settle that claim.

(B) *City Attorney's authority.*

(1) In defending claims brought against the city, the City Attorney shall have the sole authority to settle any lawsuit and any, including litigated workers' compensation claim on which a petition for benefits has been filed claims, up to \$25,000.00 ~~\$25,000~~ with prior written notice to the City Manager.

(2) In defending claims brought against the city, the City Attorney may settle any lawsuit and any, including litigated workers' compensation claim on which a petition for benefits has been filed claims, from \$25,000.01 ~~\$25,000~~ to \$50,000.00 ~~\$50,000~~ with prior written approval from the City Manager and prior written notice to the Commission and time to make any necessary inquiries at the next succeeding Commission meeting.

(3) In defending claims brought against the city, the City Attorney may settle any lawsuit and any, including litigated workers' compensation claim on which a petition for benefits has been filed claims, in excess of \$50,000.00 ~~\$50,000~~, only after notice to the City Manager and the Commission, and only upon prior approval and authorization from the Commission.

(4) ~~The City Attorney may file and prosecute claims, including counterclaims and crossclaims, on behalf of or in the name of the city, when the amount of any such claim does not exceed \$50,000. As provided in the Charter, the~~ The City Attorney shall seek Commission approval before filing claims, excluding counterclaims and crossclaims, on behalf of or in the name of the city where the amount exceeds \$50,000. With respect to all such claims, the City Attorney is authorized to:

(a) File all pleadings deemed necessary and proper for the prosecution of any such claim;

(b) Settle, adjust, compromise or otherwise dispose of any such claim, either before or after suit is filed, where the total amount being forgiven is not in excess of \$10,000;

(c) Settle, adjust, compromise or otherwise dispose of any such claim with the concurrence of the City Manager, either before or after suit is filed, where the total amount being forgiven is in excess of \$10,000 but not in excess of \$25,000; and

(d e) Undertake investigation, fact finding or discovery for the purpose of settlement, compromise or furtherance of litigation.

(5) The City Attorney shall direct the Risk Manager to cause payment from the Self-Insurance Fund of pay any settled investigative claim or lawsuit, including litigated workers' compensation claims, after the required respective approval has been obtained.

§ 41.06 EXPENSES AND RESERVES MISCELLANEOUS PROGRAMS FUND; SELF-INSURANCE FUND.

The Program shall cover expenses and reserves as specified in this section include ~~two separate funds: the Miscellaneous Programs Fund and the Self-Insurance Fund. The Miscellaneous Programs Fund and the Self-Insurance Fund and their respective accounts and sub-accounts created by Ordinance No. 08747 shall be transferred to the program created hereunder, and as such shall continue to exist and shall be deemed to constitute the funds, accounts and sub-accounts required hereunder.~~

(A) ~~The Only the Miscellaneous Programs~~ Self-Insurance Fund shall be used for payment of the following:

* * *

(2) The cost of insurance policies or ancillary services; and

(3) The cost of pursuing claims which the Program has against other parties.

~~(B) The Self-Insurance Fund shall be used for payment of only the following:~~

~~(4 1) Costs incurred by the City Attorney for coverages provided by the Program;~~

~~(5 2) Losses covered by the Program;~~

~~(6 3) Allocated claims expenses for losses covered by the Program;~~

~~(7 4) Allocated operating expenses of the Program; and~~

~~(8 5) Costs due the independent agencies paid to Self-Insurance Fund by insurers or service companies; and~~

~~(6) Payments to the Miscellaneous Programs Fund for general operating expenses.~~

~~(C) The Self-Insurance Fund shall have two separate accounts: the public liability plan account and employee liability plan account. Each plan account shall have a general account which will pay general operating expenses; allocate operating expenses and will transfer funds to the appropriate loss reserve account. Each plan account shall have a loss reserve account which will have a case reserve sub-account and an incurred but not reported sub-account.~~

~~(1) Claims covered by the current coverage year will result in the transfer of funds to the case reserve sub-account from the general account.~~

~~(2) Claims covered by prior coverage years will result in the transfer of funds to the case reserve sub-account from the incurred but not reported sub-account.~~

~~(3) If the general account of the incurred but not reported sub-account is inadequate to cover funds for cases, then funds may be transferred between the public liability account and the employee liability account.~~

~~(D) Each year, the incurred but not reported sub-account must be funded based on an actuarially determined approximation of incurred but not reported claims with a contingency for adverse development of case reserves.~~

~~(E) The minimum amount for the incurred but not reported sub-account will be based on a 75% confidence level as determined by the actuary.~~

~~(F) The case reserve sub-account is only available for payment of incurred losses.~~

~~(G) The incurred but not reported account is only available for transfer to the case reserve sub-account.~~

§ 41.07 GENERAL PUBLIC LIABILITY PROGRAM.

(A) The General Public Liability Program shall provide coverage for personal injury (including bodily injury), property damage and public official's injury, including contractual liability on an occurrence basis similar to the standard insurance forms for comprehensive general liability and business auto policy used in this state by insurance companies.

(B) The General Public Liability Program shall provide a minimum of \$3,000,000 aggregate \$5,000,000 coverage, subject to any applicable monetary limitation of F.S. § 768.28(5).

(C) To the extent, but only to the extent that covered officers, employees or agents of the city are held personally liable by reason of F.S. 768.28 768.28(1), the General Public Liability Program shall not satisfy any such personal liability on behalf of such officers, employees or agents of the city.

* * *

§ 41.08 EMPLOYERS' EMPLOYEE LIABILITY PROGRAM.

(A) The Employers' Employee Liability Program shall provide coverage for workers' compensation and employers' liability with a limit of not less than \$3,000,000 per

~~incident on a basis similar to that available by a standard workers' compensation insurance policy.~~

~~(B) The Employee Liability Program provides a limit of \$5,000,000 per accident.~~

~~(B C) If a claim is made against a protected party, the protected party shall immediately forward to the Risk Manager every demand or notice received by the protected party or his or her representative.~~

~~(C D) If a lawsuit is brought against a protected party, the protected party shall immediately forward to the City Attorney the notice of hearing and/or complaint received by the protected party or his or her representative.~~

§41.09 PREMIUM PAYMENTS TO GENERAL PUBLIC LIABILITY AND EMPLOYERS' EMPLOYEE LIABILITY PROGRAMS.

~~(A) The Not later than June 1 of each year, for the upcoming coverage year, the Risk Manager will determine the premiums to be charged by using accounting and actuarial principles.~~

~~(B) With regard to workers' compensation and liability reserves, the The minimum initial premium will be based on ultimate incurred losses as estimated by the actuary at not less than a 50% 75% confidence level.~~

* * *

~~(D) In computing the premiums due hereunder, the Risk Manager shall apply the formulas set forth in section 212 of the manual.~~

Section 2: That it is the intention of the City Commission that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the City of Hollywood, Florida, and the provisions of this ordinance may be renumbered to accomplish such intention.

Section 3: That if any word, phrase, clause, subsection or section of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this ordinance.

Section 4: That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

Section 5: That this ordinance shall be in full force and effect immediately upon its passage and adoption.

ORDINANCE UPDATING AND CLARIFYING CHAPTER 41, CODE OF ORDINANCES

ADVERTISED on Oct 21, 2005.

PASSED on first reading this 20 day of Oct, 2005.

PASSED AND ADOPTED on second reading this 2 day of NOV, 2005.


MARA GIULIANTI, MAYOR

ATTEST:

PATRICIA A. CERNY, MMC
CITY CLERK

APPROVED AS TO FORM & LEGALITY
for the use and reliance of the
City of Hollywood, Florida only:


DANIEL L. ABBOTT, CITY ATTORNEY

11/3/05pac

10-2005-33

City
Manager
withdrew
on 1st
ReAd

10-2005-33

Passed
on
1st
ReAd

10/11/05

10-2005-33

10/20/05

Passed
on
2nd ReAd

11/1/05

LEGAL AD
CITY OF HOLLYWOOD

NOTICE IS HEREBY GIVEN in accordance with Section 166.041 Florida Statutes that the City Commission of the City of Hollywood, Florida, at a Regular City Commission Meeting, on WEDNESDAY, November 2, 2005, in the City Commission Chambers, Room 219, General Joseph W. Watson Circle, Hollywood, Florida, proposes to consider on second and final reading the following proposed ordinance(s):

Proposed Ordinance - PO-2005-34 beginning at: 1:15 PM, or as soon thereafter as same can be heard:

AN ORDINANCE OF THE CITY OF HOLLYWOOD, FLORIDA, AMENDING CHAPTER 30 OF THE CITY'S CODE OF ORDINANCES BY AMENDING SECTION 30.15 ENTITLED "LOBBYIST; REGISTRATION AND DISCLOSURE; ENFORCEMENT"; IN ORDER TO UPDATE THE REQUIREMENTS FOR LOBBYISTS.

Proposed Ordinance - PO-2005-36 beginning at: 1:15 PM, or as soon thereafter as same can be heard:

AN ORDINANCE OF THE CITY OF HOLLYWOOD, FLORIDA, Vacating That Portion Of South Surf Road Lying Between Block 4 And Lots 7, 8, 9 And 10 Of Block 2 Of The "Amended Plat Of Seminole Beach", PB 1, Pg 15, And More Specifically Described In Exhibit "A" Attached Hereto And Incorporated Herein, Subject To The Provisions Of The Attached Development Agreement And Escrow Agreement; Providing A Severability Clause, A Repealer Provision; And An Effective Date. (VA-05-01)

Proposed Ordinance - PO-2005-33 beginning at: 1:45 PM, or as soon thereafter as same can be heard:

AN ORDINANCE OF THE CITY OF HOLLYWOOD, FLORIDA, AMENDING VARIOUS PROVISIONS OF CHAPTER 41 OF THE CODE OF ORDINANCES RELATING TO THE SELF-INSURANCE PROGRAM IN ORDER TO UPDATE AND/OR CLARIFY SAID CHAPTER.

The proposed ordinance(s) may be inspected by the public in the Office of the City Clerk, Room 221, General Joseph W. Watson Circle, Hollywood, Florida, between the hours of 8:00 AM and 4:45 PM on any regular working day. Interested parties may appear at the aforesaid time and place and be heard with respect to the proposed ordinance(s).

NOTE: Any person who decides to appeal any decision made by the City Commission with respect to any matter considered at this meeting will need a record of the proceedings, and it will be their responsibility to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. Please call 954-921-3211 for any questions regarding the above matter.

Persons with disabilities who require reasonable accommodation to participate in City programs and/or services may call the Office of the City Manager three business days in advance at 954-921-3201 (voice). If an individual is hearing or speech impaired, please call 800-955-8771 (V-TDD).

Dated this 21st day of October, 2005.

Patricia A. Cerny, MMC
City Clerk
Hollywood, FL

THE SUN SENTINEL/LEGAL AD
PUBLISH: OCTOBER 21, 2005
FURNISH PROOF OF PUBLICATION

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