

**ORDINANCE NO. 2016-06**

**AN ORDINANCE OF THE FLAGSTAFF CITY COUNCIL, AMENDING THE FLAGSTAFF CITY CODE, TITLE 1, *ADMINISTRATIVE*, CHAPTER 1-24, *INSURANCE*, RELATING TO THE BOARD OF TRUSTEES AND ADMINISTRATION OF THE SELF-INSURANCE TRUST FUND; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE**

**RECITALS:**

WHEREAS, the City of Flagstaff maintains a Self-Insurance Trust Fund to pay for benefits, losses and claims; and

WHEREAS, the City desires to update and revise its procedures for administering its Self-Insurance Trust Fund consistent with A.R.S. § 11-981.

**ENACTMENTS:**

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:**

SECTION 1: In General.

That Flagstaff City Code, Title 1, *Administrative*, Chapter 1-24, *Insurance*, is hereby amended as follows (additions shown in capitalized underlined text, and deletions shown as stricken):

**SECTION 1-24-001-0001      PURPOSE**

~~A fund shall be established for the~~ THE purpose of THE SELF-INSURANCE TRUST FUND IS TO paying benefits, losses, and claims. ~~The funds shall be placed in a trust fund in an amount determined appropriate by the City Council. The fund shall be administered in accordance with A.R.S. § 11-981.~~

**SECTION 1-24-001-0002      DEFINITIONS**

In this Chapter unless the context otherwise requires:

ADMINISTRATOR: THE RISK MANAGEMENT CONSULTANT OR INSURANCE ADMINISTRATOR WHO SHALL BE LICENSED PURSUANT TO A.R.S. § 20-281 ET SEQ. (INSURANCE PROVIDER LICENSING) OR CERTIFIED AS AN INSURANCE ADMINISTRATOR UNDER A.R.S. § 20-485 ET SEQ. (INSURANCE ADMINISTRATORS).

CITY: The City of Flagstaff, Arizona, including public officials, boards, commissions, employees and supervised volunteers, while performing duties for the City within the scope of employment.

DECLARATION OF TRUST AGREEMENT: THE AGREEMENT ENTERED INTO BY THE CITY AND THE TRUSTEES, SETTING FORTH THE POWERS AND DUTIES OF THE TRUSTEES AND THE ADMINISTRATOR; A STOP LOSS PROVISION; AND OTHER TERMS AND CONDITIONS.

FUND OR TRUST: THE SELF-INSURANCE TRUST FUND.

LIABILITY LOSS: Defense and damages for losses to persons or property for which the City is liable.

PROPERTY LOSS: Damage to tangible City-owned property by an accidental event but not property of public officials, boards, commissions, employees or volunteers.

UNEMPLOYMENT COMPENSATION LOSSES: Those charges imposed upon the City by Federal and State unemployment compensation laws.

WORKER'S COMPENSATION LOSSES: Those losses for which the City is liable subject to title 23 of the Arizona Revised Statutes.

### **SECTION 1-24-001-0003 SELF-INSURANCE TRUST FUND**

- A. THE SELF-INSURANCE TRUST FUND SHALL BE FUNDED IN AMOUNT DETERMINED APPROPRIATE BY THE CITY COUNCIL.
- B. The Self-Insurance Trust Fund shall provide defense and payment of ~~benefits, insurance premiums, losses, and claims for property, liability, unemployment compensation, worker's compensation; losses, health, accident, life, disability or other benefits for the employees and officers of the City and their dependents;~~ and payment of insurance premiums; AND RISK MANAGEMENT CONSULTATION; subject to the following exceptions:
- C. EXCEPTIONS:
- A-1. Claims or punitive damages arising, out of the willful violation of a penal statute or ordinance.
- B-2. Claims arising out of acts of bad faith and/or fraud.
- C-3. Other items deemed inappropriate by the City Manager OR ADMINISTRATOR.

### **SECTION 1-24-001-0004 BOARD OF TRUSTEES**

- A. THE CITY COUNCIL SHALL APPOINT FIVE (5) TRUSTEES TO SERVE AS THE BOARD OF TRUSTEES OF THE SELF-INSURANCE TRUST FUND. EACH TRUSTEE WILL SERVE A THREE (3) YEAR TERM. EXCEPT INITIAL APPOINTMENTS SHALL BE STAGGERED AS FOLLOWS: THREE (3) TRUSTEES SHALL BE APPOINTED FOR A THREE (3) YEAR TERM, AND TWO (2) TRUSTEES SHALL BE APPOINTED FOR A TWO (2) YEAR TERM.

- B. ALL TRUSTEES MUST BE RESIDENTS OF THE CITY. NO MORE THAN ONE TRUSTEE MAY BE A CITY COUNCIL MEMBER. NO MORE THAN ONE TRUSTEE MAY BE A CITY EMPLOYEE.
- C. NO PERSON SHALL QUALIFY AS A TRUSTEE UNTIL HE OR SHE HAS BEEN BONDED. THE BOND REQUIREMENT MAY BE SATISFIED BY THE BLANKET PERFORMANCE BOND OR OTHER COVERAGE PROVIDED BY THE CITY.
- D. TRUSTEES ARE SUBJECT TO REMOVAL AND SUBSTITUTION BY THE CITY COUNCIL WITH OR WITHOUT CAUSE. UPON EXPIRATION OF HIS OR HER TERM, A TRUSTEE MAY BE REAPPOINTED BY CITY COUNCIL.

**SECTION 1-24-001-009405 ~~AUDIT COMMITTEE ADVISORY TO CITY COUNCIL~~ **POWERS AND DUTIES OF BOARD OF TRUSTEES****

~~The City of Flagstaff's Audit Committee, with the exception of the Management Services Director, shall serve as trustees for the Self Insurance Trust Fund, provided that all members of the Audit Committee are residents of the City, no more than one (1) member of the Audit Committee is a member of the City Council, and no more than one (1) member of the Audit Committee is an employee of the City. The Audit Committee~~

- A. THE BOARD OF TRUSTEES shall administer the self-insurance program of the City in the manner prescribed by A.R.S. § 11-981 AND IN THE DECLARATION OF TRUST AGREEMENT, and shall perform such other duties as may be delegated by the City Council from time to time.
- B. THE BOARD OF TRUSTEES SHALL MEET AT LEAST ONCE A YEAR TO:
  - 1. RETROSPECTIVELY REVIEW ALL AGGREGATED EXPENDITURES, INCLUDING PAID CLAIMS;
  - 2. MAKE RECOMMENDATIONS TO THE CITY COUNCIL, THROUGH THE CITY MANAGER, REGARDING THE AMOUNT OF FUNDING TO ACHIEVE AND MAINTAIN ADEQUATE RESERVES IN THE TRUST, THE INVESTMENT AND ADMINISTRATION OF THE TRUST, AND APPROVAL OF ACTUARIAL ASSUMPTIONS;
  - 3. MAKE OTHER RECOMMENDATIONS TO THE CITY COUNCIL THAT THE TRUSTEES DEEM NECESSARY AND APPROPRIATE; AND
  - 4. SUBMIT AN ANNUAL REPORT TO THE CITY COUNCIL THROUGH THE CITY MANAGER RELATING TO THE STATUS OF THE TRUST.

**SECTION 1-24-001-009506 ~~RISK MANAGEMENT DIRECTOR OR CONSULTANT ADMINISTRATOR~~**

- A. ~~The City shall designate a risk management director or consultant who shall be licensed pursuant to Title 20, Chapter 2, Arizona Revised Statutes. The director or consultant shall~~ A QUALIFIED ADMINISTRATOR FOR THE SELF-INSURANCE TRUST FUND TO provide such advice and assistance as the City Manager shall request.

- B. THE FINANCIAL ACTIVITIES, MANAGEMENT AND BUSINESS AFFAIRS OF THE SELF-INSURANCE TRUST FUND SHALL BE MANAGED EFFECTIVELY AND EFFICIENTLY BY THE ADMINISTRATOR IN CONSULTATION WITH THE MANAGEMENT SERVICES DIRECTOR AND THE FINANCE DIRECTOR.
- C. THE ADMINISTRATOR SHALL SUBMIT A REPORT ON THE STATUS OF THE TRUST TO THE BOARD OF TRUSTEES AT LEAST ANNUALLY.

**1-24-001-000607 CITY ATTORNEY SALARY EXPENSE**

The direct cost of salary expense for the City Attorney in matters of litigation shall be an eligible charge to the ~~Less-Trust~~ Fund.

**1-24-001-000708 SETTLEMENT OF CLAIMS**

The City Manager or designee shall have the authority to settle and authorize payment of claims against the City up to the amount of fifty thousand dollars (\$50,000). Any SETTLEMENT claim in excess of this amount shall require approval of the City Council. ~~The Council shall be notified of all claim settlements.~~

**1-24-001-000809 EXCESS INSURANCE**

The City shall purchase excess insurance above the risk retention limit approved by the City Council.

**1-24-001-000910 TRUST FUND NOT SUBJECT TO BUDGET LAW**

Expenditures during the fiscal year from the trust fund and monies in the trust fund at the close of the fiscal year shall not be subject to the LOCAL GOVERNMENT BUDGETING PROVISIONS OF A.R.S. § 42-17101 ET SEQ. ~~provisions of Title 42, Chapter 2, Article 4, Arizona Revised Statutes. An Audit shall be performed annually by an external auditor and~~ THE SELF-INSURANCE TRUST FUND SHALL BE AUDITED ANNUALLY AS REQUIRED BY THE CITY CHARTER, ARTICLE VI, SECTION 5 said report shall be kept on file WITH THE CITY CLERK for a minimum of five (5) years.

SECTION 3. Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this ordinance or any part of the code adopted herein by reference are hereby repealed.

SECTION 4. Severability.

If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 5. Effective Date.

This ordinance shall become effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 6th day of September, 2016.

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MAYOR

ATTEST:

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CITY CLERK

APPROVED AS TO FORM:

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CITY ATTORNEY