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5 **AN ORDINANCE Amending Chapter 37 Finance and**  
6 **Revenues of the Fort Wayne Municipal Code of Ordinances**  
7 **§37.04, Monthly Financial Reports to**  
8 **Common Council**  
9

10 WHEREAS, Indiana Code 36-4-9-6 establishes the appointment of the City Controller in  
11 second-class cities; and,

12  
13 WHEREAS, Indiana Code 36-4-10-5 designates the fiscal officer of a second-class city  
14 to manage the finances and accounts of the city, subject to ordinances of the legislative body;  
15 and

16  
17 WHEREAS, the legislative body is the fiscal body of the City of Fort Wayne.

18  
19 NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE  
20 CITY OF FORT WAYNE, INDIANA,

21  
22 **SECTION 1.** Chapter 37, Finance and Revenues, § 37.04, Monthly Financial Reports to  
23 Common Council, shall be amended to add subsections D, E, and F as follows:

24  
25 **§ 37.04 Monthly Financial Reports to Common Council.**

26  
27 (A) That the City Controller shall cause to be prepared and transmitted a monthly financial  
28 report to members of the Common Council;

29  
30 (B) The monthly financial report shall include the total expenditures of the major funds of the  
31 City for the prior month, total revenues by source received by the City of and allocated to the  
32 major funds of the City, and year-to-date totals of revenue and expenditures by the major funds.

33  
34 (C) The monthly report shall be transmitted to members of the Common Council by the 21<sup>st</sup>  
35 day of the monthly following the month which is the subject of the report.

36  
37 (D) When significant unexpected revenues (in excess of \$300,000) occur the City Controller  
38 will notify City Council in the monthly financial report. The City, including any civil city  
39 departments and divisions upon receiving revenue from a non-appropriated, non-budgeted, or  
40 otherwise New Revenue source (New Revenue), prior to expending said New Revenue, shall  
41 provide to Common Council (in writing) the following information:

- 42 (1) the source(s) of the New Revenue;
- 43 (2) the date that the New Revenue was received by the City or the date (time frame)
- 44 when the New Revenue will be received;
- 45 (3) the Fund or Funds into which the New Revenue is or will be deposited;
- 46 (4) the total amount of the New Revenue received or expected;


1 (5) any restrictions attached to the New Revenue including those that impact expending  
2 the revenue; and,

3 (6) if applicable, the City's intended use and timetable for expenditure of the New  
4 Revenue.

5 (E) The City, including any city departments and divisions shall not expend or commit to  
6 expend any New Revenue without completing the disclosure required in subparagraph D herein.

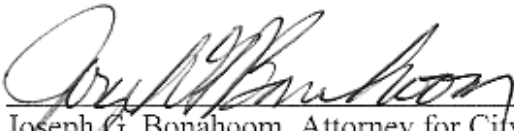
7 **SECTION 2.** That the City is directed to take all action necessary and proper for the  
8 implementation of this Ordinance, including notifying all city departments of the Ordinance and  
9 its requirements.

10 **SECTION 3.** That this Ordinance shall be in full force and effect from and after its  
11 passage and any and all necessary approval by the Mayor.

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19 Russ Jehl, Council Member

20 **APPROVED AS TO FORM AND LEGALITY**

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23 Joseph G. Bonahoom, Attorney for City Council

5 **AN ORDINANCE inserting “§ 37.05: Notice to Common**  
6 **Council of New, Non-Appropriated Revenue Funds Prior to**  
7 **Expenditure” in Chapter 37: Finance and Revenue, of the**  
8 **Fort Wayne Municipal Code of Ordinances**  
9

10 WHEREAS, the City of Fort Wayne is incorporate in the American tradition of distinct  
11 and co-equal branches of government, providing checks and balances; and  
12

13 WHEREAS, the Mayor is the Executive and therefore runs or otherwise leads the  
14 Executive Branch and the Common Council is the Legislative branch for the City of Fort Wayne;  
15 and,  
16

17 WHEREAS, the Common Council is designated by State statute as the fiscal body; and,  
18

19 WHEREAS, State statutes mandate annual budgeting for fiscal matters through checks  
20 and balances of the Mayor and the Common Council, wherein the Mayor/Executive Branch  
21 proposes a budget. Council may amend the budget by making budget cuts only and then  
22 approves the budget as so amended and subsequently the Mayor must sign off on the amended  
23 budget; and,  
24

25 WHEREAS, as part of the budget process, both branches approve an appropriation  
26 measure which appropriates the City’s revenues from real estate tax and other tax sources for use  
27 in funding the budget so approved; and,  
28

29 WHEREAS, appropriations in any given year over and above those approved in the  
30 initial budget process must be proposed by the Mayor/Executive and approved by the Common  
31 Council/Legislative Branch along with a corresponding amendment to the budget; and,  
32

33 WHEREAS, the budget and subsequent amendments must be sent to the Indiana  
34 Department of Local Government Finance (“DLGF”); and,  
35

36 WHEREAS, the appropriation and budgeting system is designed to prevent either the  
37 Mayor/Executive or the Common Council/Legislative Branch from unilaterally spending or  
38 appropriating significant sums of taxpayer funds and other City revenues without the approval  
39 and oversight from the other. Further, the system requires that appropriations and other spending  
40 initiatives be made public and transparent prior to the time when the spending actually occurs;  
41 and,  
42

43 WHEREAS, the size and scope of revenue and expenditures of the City budget are  
44 difficult to predict and variances are tracked by the City’s Department of Finance and State  
45 revenue variances are communicated by the DLGF; and,  
46  
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1 WHEREAS, in 2018, the Mayor/Executive and the City of Fort Wayne received  
2 approximately Six Million Dollars (\$6,000,000.00) in unexpected revenues from various  
3 sources; and,  
4

5 WHEREAS, the unexpected revenues were utilized or otherwise spent by the  
6 Mayor/Executive Branch on City services without going through the appropriation process or  
7 otherwise notifying Common Council or the general public that the funds had been received and  
8 expended until after the funds were both received and spent; and,  
9

10 WHEREAS, in December, 2018, after the unexpected and unbudgeted revenues had been  
11 received and otherwise expended, the Executive Branch requested an appropriation and an  
12 amendment to the budget from Common Council which was approved and otherwise reported or  
13 communicated to the DLGF; and,  
14

15 WHEREAS, the aforementioned process of approving an amended budget is contrary to  
16 the spirit of the budgetary system; and,  
17

18 WHEREAS, Fort Wayne Municipal Code of Ordinances does not currently contain a  
19 provision outlining obligations of the City to obtain appropriation approval for unexpected non-  
20 real estate tax-based revenues, the expenditure for which has not been previously appropriated or  
21 otherwise approved by Common Council.  
22

23 NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE  
24 CITY OF FORT WAYNE, INDIANA,  
25

26 **SECTION 1.** That § 37.05: "Notice to Common Council of New, Non-Appropriated  
27 Revenue Funds Prior to Expenditure" be inserted into Chapter 37: Finance and Revenue of the  
28 Fort Wayne Municipal Code of Ordinances and shall read as follows:  
29

30 **§ 37.05 Notice to Common Council of New, Non-Appropriated Revenue Funds Prior to**  
31 **Expenditure.**  
32

33 (A) The City, including any city departments, divisions, or city-operated utilities, upon  
34 receiving revenue from a non-appropriated, non-budgeted, or otherwise new revenue  
35 source (New Revenue), prior to expending said New Revenue, shall provide to Common  
36 Council (in writing) the following information:  
37

- 38 (1) the source(s) of the New Revenue;
- 39 (2) the date that the New Revenue was received by the City or the date (time frame)  
40 when the New Revenue will be received;
- 41 (3) the Fund or Funds into which the New Revenue is or will be deposited;
- 42 (4) the total amount of the New Revenue received or expected;
- 43 (5) any restrictions attached to the New Revenue including those that impact expending  
44 the revenue; and,
- 45 (6) the City's intended use and timetable for expenditure of the New Revenue.

1 (B) The City, including any city departments, divisions, or city-operated utilities, shall not  
2 expend or commit to expend any New Revenue without completing the disclosure required  
3 in subparagraph A herein.  
4

5 (C) Any expenditure, contract to use or expend, commitment to use or expend, or other  
6 agreement obligating the City or designating the use of the any New Revenue, undertaken  
7 completed or committed to prior to completion of all of the disclosures required in sub  
8 paragraph (A) herein, shall be considered void, terminated, or otherwise voidable and any  
9 New Revenues already expended or otherwise disbursed shall be recoverable by the City  
10 from the third party receiving the New Revenues as a result of the City's failure to comply  
11 with this provision.  
12

13 (D) Common Council shall have the right to apply to the Allen Circuit Court or Allen Superior  
14 Court or any other Court of competent and appropriate jurisdiction to allow enforcement  
15 under this ordinance and in so doing, Common Council may retain qualified legal council  
16 to pursue such action which legal counsel and other attorney fees and cost shall be paid for  
17 by and through funds appropriated and the budget for use by the legal department of the  
18 City of Fort Wayne.

19 **SECTION 2.** That the City is directed to take all action necessary and proper for the  
20 implementation of this Ordinance, including notifying all city departments, divisions, or city-  
21 operated utilities of the Ordinance and its requirements.

22  
23 **SECTION 3.** That this Ordinance shall be in full force and effect from and after its  
24 passage and any and all necessary approval by the Mayor.  
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31 Russ Jehl, Council Member

32 **APPROVED AS TO FORM AND LEGALITY**

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35  
36 Joseph G. Bonahoom, Attorney for City Council

4  
5 **AN ORDINANCE Amending Chapter 37 inserting "§ 37.05:**  
6 **Notice to Common Council of New, Non-Appropriated**  
7 **Revenue Funds Prior to Expenditure" in Chapter 37:**  
8 **Finance and Revenues, of the Fort Wayne Municipal Code**  
9 **of Ordinances §37.04, Monthly Financial Reports to**  
10 **Common Council**

11  
12 WHEREAS, Indiana Code 36-4-9-6 establishes the appointment of the City Controller in  
13 second-class cities; and, the City of Fort Wayne is incorporate in the American tradition of  
14 distinet and eo-equal branches of government, providing checks and balancees; and

15  
16 WHEREAS, Indiana Code 36-4-10-5 designates the fiscal officer of a second-class city  
17 to manage the finances and accounts of the city, subject to ordinances of the legislative body;  
18 and the Mayor is the Executive and therefore runs or otherwise leads the Executive Branch and  
19 the Common Council is the Legislative branch for the City of Fort Wayne; and;

20  
21 WHEREAS, the legislative body is the fiscal body of the City of Fort Wayne. the  
22 Common Council is designated by State statute as the fiscal body; and;

23  
24 WHEREAS, State statutes mandate annual budgeting for fiscal matters through checks  
25 and balancees of the Mayor and the Common Council, wherein the Mayor/Executive Branch  
26 proposes a budget. Council may amend the budget by making budget cuts only and then  
27 approves the budget as so amended and subsequently the Mayor must sign off on the amended  
28 budget; and;

29  
30 WHEREAS, as part of the budget process, both branches approve an appropriation  
31 measure which appropriates the City's revenues from real estate tax and other tax sources for use  
32 in funding the budget so approved; and;

33  
34 WHEREAS, appropriations in any given year over and above those approved in the  
35 initial budget process must be proposed by the Mayor/Executive and approved by the Common  
36 Council/Legislative Branch along with a corresponding amendment to the budget; and;

37  
38 WHEREAS, the budget and subsequent amendments must be sent to the Indiana  
39 Department of Local Government Finance ("DLGF"); and;

40  
41 WHEREAS, the appropriation and budgeting system is designed to prevent either the  
42 Mayor/Executive or the Common Council/Legislative Branch from unilaterally spending or  
43 appropriating significant sums of taxpayer funds and other City revenues without the approval  
44 and oversight from the other. Further, the system requires that appropriations and other spending  
45 initiatives be made public and transparent prior to the time when the spending actually occurs;  
46 and;

1 WHEREAS, the size and scope of revenue and expenditures of the City budget are  
2 difficult to predict and variances are tracked by the City's Department of Finance and State  
3 revenue variances are communicated by the DLGF; and,  
4

5  
6 WHEREAS, in 2018, the Mayor/Executive and the City of Fort Wayne received  
7 approximately Six Million Dollars (\$6,000,000.00) in unexpected revenues from various  
8 sources; and,  
9

10 WHEREAS, the unexpected revenues were utilized or otherwise spent by the  
11 Mayor/Executive Branch on City services without going through the appropriation process or  
12 otherwise notifying Common Council or the general public that the funds had been received and  
13 expended until after the funds were both received and spent; and,  
14

15 WHEREAS, in December, 2018, after the unexpected and unbudgeted revenues had been  
16 received and otherwise expended, the Executive Branch requested an appropriation and an  
17 amendment to the budget from Common Council which was approved and otherwise reported or  
18 communicated to the DLGF; and,  
19

20 WHEREAS, the aforementioned process of approving an amended budget is contrary to  
21 the spirit of the budgetary system; and,  
22

23 WHEREAS, Fort Wayne Municipal Code of Ordinances does not currently contain a  
24 provision outlining obligations of the City to obtain appropriation approval for unexpected non-  
25 real estate tax based revenues, the expenditure for which has not been previously appropriated or  
26 otherwise approved by Common Council.  
27

28 NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE  
29 CITY OF FORT WAYNE, INDIANA,  
30

31 **SECTION 1.** Chapter 37, Finance and Revenues, That § 37.045, Monthly Financial  
32 Reports to Common Council, shall be amended to add subsections D, E., and F as follows:  
33 "Notice to Common Council of New, Non-Appropriated Revenue Funds Prior to Expenditure"  
34 be inserted into Chapter 37: Finance and Revenue of the Fort Wayne Municipal Code of  
35 Ordinances and shall read as follows:  
36

37 **§ 37.054 Monthly Financial Reports to Common Council.** ~~Notice to Common Council of~~  
38 ~~New, Non-Appropriated Revenue Funds Prior to Expenditure.~~  
39

40 (A) That the City Controller shall cause to be prepared and transmitted a monthly financial  
41 report to members of the Common Council;  
42

43 (B) The monthly financial report shall include the total expenditures of the major funds of the  
44 City for the prior month, total revenues by source received by the City of and allocated to the  
45 major funds of the City, and year-to-date totals of revenue and expenditures by the major funds.  
46

1 (C) The monthly report shall be transmitted to members of the Common Council by the 21<sup>st</sup>  
2 day of the month following the month which is the subject of the report.

3  
4 ~~(A) The City, including any city departments, divisions, or city operated utilities, upon~~  
5 ~~receiving revenue from a non-appropriated, non-budgeted, or otherwise new revenue~~  
6 ~~source (New Revenue), prior to expending said New Revenue, shall provide to Common~~  
7 ~~Council (in writing) the following information:~~

8 (D) When significant unexpected revenues (in excess of \$100,000) occur the City Controller  
9 will notify City Council in the monthly financial report. The City, including any civil city  
10 departments and divisions upon receiving revenue from a non-appropriated, non-budgeted, or  
11 otherwise New Revenue source (New Revenue), prior to expending said New Revenue, shall  
12 provide to Common Council (in writing) the following information:

- 13  
14 (1) the source(s) of the New Revenue;  
15 (2) the date that the New Revenue was received by the City or the date (time frame)  
16 when the New Revenue will be received;  
17 (3) the Fund or Funds into which the New Revenue is or will be deposited;  
18 (4) the total amount of the New Revenue received or expected;  
19 (5) any restrictions attached to the New Revenue including those that impact expending  
20 the revenue; and,  
21 (6) if applicable, the City's intended use and timetable for expenditure of the New  
22 Revenue.

23 ~~(E) The City, including any city departments and, divisions shall, or city operated utilities,~~  
24 ~~shall not expend or commit to expend any New Revenue without completing the disclosure~~  
25 ~~required in subparagraph A-D herein.~~

26 (F) Common Council shall have the right to apply to the Allen Circuit Court or Allen  
27 Superior Court or any other Court of competent and appropriate jurisdiction to assure  
28 enforcement under this Ordinance and in so doing, Common Council, may retain qualified legal  
29 counsel to pursue such action. All attorney fees and other costs incurred as a result of  
30 enforcement of this Ordinance shall be paid for by and through funds appropriated and budgeted  
31 for use for legal services within the City department or division that has failed to comply with  
32 this Ordinance.

33  
34 ~~(B) Any expenditure, contract to use or expend, commitment to use or expend, or other~~  
35 ~~agreement obligating the City or designating the use of the any New Revenue, undertaken~~  
36 ~~completed or committed to prior to completion of all of the disclosures required in sub~~  
37 ~~paragraph (A) herein, shall be considered void, terminated, or otherwise voidable and any~~  
38 ~~New Revenues already expended or otherwise disbursed shall be recoverable by the City~~  
39 ~~from the third party receiving the New Revenues as a result of the City's failure to comply~~  
40 ~~with this provision.~~  
41

1 ~~(C) Common Council shall have the right to apply to the Allen Circuit Court or Allen Superior~~  
2 ~~Court or any other Court of competent and appropriate jurisdiction to allow enforcement~~  
3 ~~under this ordinance and in so doing, Common Council may retain qualified legal council~~  
4 ~~to pursue such action which legal counsel and other attorney fees and cost shall be paid for~~  
5 ~~by and through funds appropriated and the budget for use by the legal department of the~~  
6 ~~City of Fort Wayne.~~

7  
8 **SECTION 2.** That the City is directed to take all action necessary and proper for the  
9 implementation of this Ordinance, including notifying all city departments, divisions, of city-  
10 operated utilities of the Ordinance and its requirements.

11 **SECTION 3.** That this Ordinance shall be in full force and effect from and after its  
12 passage and any and all necessary approval by the Mayor.

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Russ Jehl, Council Member

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20 **APPROVED AS TO FORM AND LEGALITY**

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Joseph G. Bonahoom, Attorney for City Council

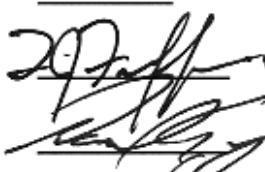
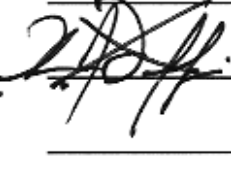
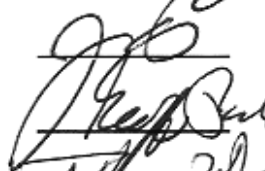
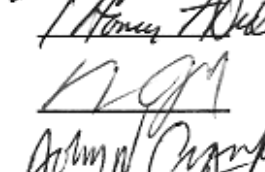
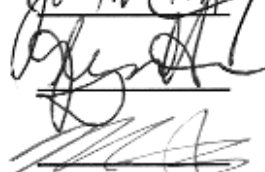
**BILL NO. G-19-06-37**  
*AS AMENDED*

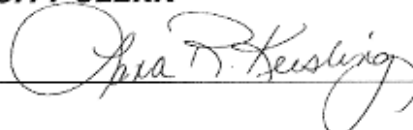
**REPORT OF COMMITTEE ON REGULATIONS**  
**September 10, 2019**

***Tom Freistroffer* Chair**  
***Michael Barranda* Co-Chair**  
***All Council Members***

An Ordinance inserting "§ 37.05: Notice to Common Council of New, Non-Appropriated Revenue Funds Prior to Expenditure" in Chapter 37: Finance and Revenue, of the Fort Wayne Municipal Code of Ordinances

**COMMITTEE ON REGULATIONS HAVE HAD SAID Ordinance under consideration and beg leave to report back to the Common Council that said Ordinance**

<u>DO PASS</u>	<u>DO NOT PASS</u>	<u>ABSTAIN</u>	<u>NO REC</u>
		_____	_____
_____	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
_____	_____	_____	_____

**LANA R. KEESLING**  
**CITY CLERK**  


Public Hearing Date: N/A

Read the first time in full and on motion by Councilman Freistroffer.

Read the second time by title and referred to the Regulations Committee.

Read the third time in full and on motion by Councilman Freistroffer, placed on passage by the following vote:

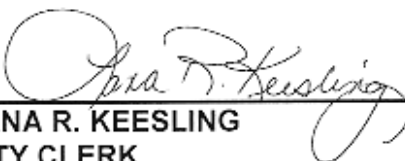
<u>TOTAL VOTES</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
ARP	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
BARRANDA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CRAWFORD	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DIDIER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ENSLEY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
FREISTROFFER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HINES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
JEHL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PADDOCK	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

DATED: September 10, 2019

  
LANA R. KEESLING, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as

Ordinance No. G-19-06-37AA on the 10th day of September, 2019

  
LANA R. KEESLING  
CITY CLERK

  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 11th of September 2019, at the hour of 11:40 o'clock A.M. E.S.T.

  
LANA R. KEESLING, CITY CLERK

Approved and signed by me this 14<sup>TH</sup> day of SEPTEMBER

2019, at the hour of 11:00 o'clock AM E.S.T.

  
THOMAS C. HENRY, MAYOR

