

ORDINANCE NO. 26-_____

AN ORDINANCE AMENDING MULTIPLE SECTIONS OF ARTICLE 6 (WORKERS' COMPENSATION) OF CHAPTER 1 (ADMINISTRATION, PERSONNEL AND FINANCE) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO CLAIMS MANAGEMENT

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. Section 601 (Purpose and Intent) of Article 6 (Workers' Compensation) of Chapter 1 (Administration, Personnel and Finance) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

1.5.601: PURPOSE AND INTENT:

The City Council hereby recognizes that the City **and Utilities** ~~is~~**are** required to provide workers' compensation coverage for the City due to personal injuries or deaths sustained by any **City or Utilities** employee, pursuant to Colorado Revised Statutes **C.R.S.** title 8, articles 40 to 47 and 55; **C.C.R. title 7; and other applicable state, federal, and local laws, referred to as the "Colorado Workers' Compensation Law" for purposes of this article.** For purposes of this ~~article~~**part**, reference to the "City" shall ~~be deemed to include the general fund, to also include all enterprise and internal service fund activities, Utilities, MHS Enterprise, regional building, the housing authority, and any joint ventures and, authorities, and others. In the interest of clarity, "MHS Enterprise" does not refer to any current or future operator of leased facilities under the Memorial Health System Affiliation or encompass such operator's employees.~~

The City Council recognizes the need to respond to meritorious claims of ~~the City and Utilities~~ employees in a timely fashion. ~~An appropriate remedy is to by create~~**creating** reserve funds for ~~the purpose of self-insurance~~ **purposes** to the extent that insurance coverage has not been obtained. The City Council declares that the purpose of this ~~article~~**part** is to: create **separate** claim reserve funds **for the City and Utilities;** provide a mechanism for claims adjustment, investigation, and defense; and to authorize the settlement and payment of claims due to personal injuries or deaths sustained by any **City or Utilities** employee pursuant to

~~the Colorado Workers' Compensation Law Colorado Revised Statutes title 8, articles 40 to 47 and 55.~~

As used in this article: "Utilities Chief Financial Officer" means the person designated by, and reporting directly to, the Chief Executive Officer, who is responsible for supervising the financial affairs of Utilities, subject to the Chief Executive Officer's ultimate responsibility for the proper and effective administration of Utilities in accord with Article VI of the City Charter; "City Risk Manager" means the person designated by the Chief Human Resources and Risk Officer to oversee the operation of the City Workers' Compensation Claim Reserve Fund described in this article; and "Utilities Risk Manager" means the person designated by the Chief Executive Officer to oversee the operation of the Utilities Workers' Compensation Claim Reserve Fund described in this article. Furthermore, in the interest of clarity, "MHS Enterprise" does not encompass such operator's employees.

Section 2. Section 602 (Workers' Compensation Claim Reserve Fund) of Article 6 (Workers' Compensation) of Chapter 1 (Administration, Personnel and Finance) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

1.5.602: CITY WORKERS' COMPENSATION CLAIM RESERVE FUND; UTILITIES WORKERS' COMPENSATION CLAIM RESERVE FUND:

(A) There are hereby created ~~two~~ **(2)** funds to be known as the ~~"City Workers' Compensation Claim Reserve Fund"~~, **and the "Utilities Workers' Compensation Claim Reserve Fund" (for the purposes of this part, each a "Fund" or collectively the "Funds").** ~~The City Workers' Compensation Claim Reserve Fund~~ **which** will consist of all monies which may be appropriated to the ~~fund~~ by the City Council or which may be otherwise made available to it by the City Council. **The Utilities Workers' Compensation Claim Reserve Fund will consist of all monies which may be allocated to the Fund by Utilities or which may be otherwise made available to it by Utilities or the City Council.** ~~This~~ **Each** ~~fund~~ is created for the purpose of enabling the City **and Utilities** to meet ~~its~~ **their** statutory workers' compensation obligations to ~~its~~ **their respective** employees, and **to comply with 7 CCR 1101-4 or its successor regulation** ~~Executive Director of the Department of Labor and Employment under rules governing the issuance of self-insurance permits, Code of Colorado Regulations 1101.4.~~ **Nothing in this article shall preclude the City or Utilities from hiring a third party to administer accounts funded by each Fund, respectively, in whole or in part.**

The terms and conditions of ~~the employer's'~~ coverages and benefits are particularly described in ~~Colorado Revised Statutes title 8, articles 40 to 47 and 55~~**the Colorado Workers' Compensation Law** and the City's **and Utilities' individual excess insurance policy**~~policies~~. The monies "otherwise made available" shall be deemed to include transfers of monies to ~~the each f~~**Funds** authorized in any given City ~~and Utilities~~ annual budget **or appropriation** ordinance. All interest earned from the investment of monies in ~~the workers' compensation claim reserve fund~~ **each Fund** shall be **independently** credited to, ~~these funds and~~ **shall** become a part **of, the Fund earning the interest**. The monies in ~~the each f~~**Funds** are hereby continuously appropriated for purposes of this ~~article~~**part**. The City's Chief Financial Officer **and Utilities' Chief Financial Officer** shall account for all independent fund categories within **the City Workers' Compensation Claim Reserve Fund and the Utilities Workers' Compensation Claim Reserve Fund, respectively**. ~~the workers' compensation claim reserve fund including Utilities, The City Workers' Compensation Claim Reserve Fund shall include: the MHS Enterprise (in the interest of clarity, "MHS Enterprise" does not refer to any current or future operator of leased facilities under the Memorial Health System Affiliation or encompass such operator's employees), Enterprises except for the MHS Enterprise and Utilities; and any authorities, ventures, and enterprise funds if any are so appropriated. The Utilities Workers' Compensation Claim Reserve Fund shall include all Utilities authorities and ventures, and enterprise funds if any are so appropriated. The accounting of The City and Utilities shall account for these~~**The f**~~Funds shall be~~ in a manner consistent with the applicable governmental accounting standards. At the end of any fiscal year, all unexpended and unencumbered monies in **each Fund** ~~the workers' compensation claim reserve funds shall remain in the each f~~**Fund; such monies** shall not be: credited or transferred to any other fund, ~~and shall not be~~ **or** construed to be an assets of the City **or Utilities**.

(B) ~~The workers' compensation claim reserve funds~~**Each Fund** shall maintain reserves to provide for contingency so ~~that in any year the contribution of the workers' compensation claim reserve funds~~ **each Fund** from other funds is **may** adequately ~~to~~ covers the actual expenses realized **by each Fund** in that year. The **City** Risk Manager, after consultation with the **Chief Human Resources and Risk Officer**, Chief Financial Officer, and the City Attorney, shall recommend the amount of money that is required to maintain adequate reserves **within the City Workers' Compensation Claim Reserve Fund, in an amount compliant with the Colorado Department of Labor and Employment. The Utilities Risk Manager, after consultation with the Utilities Chief Financial Officer and the City Attorney, shall recommend the amount of money that is required to maintain adequate reserves within the Utilities Workers' Compensation Claim Reserve Fund, in an amount compliant with the Colorado Department of Labor and Employment.** Adequate reserves shall be maintained in ~~the workers' compensation claim reserve funds~~**each Fund** subject to available appropriations made by the City Council ~~at~~

~~its discretion in an amount coordinated with the Executive Director of the Department of Labor and Employment.~~ **The City Workers' Compensation Claim Reserve Fund** fund balance shall include sufficient funds ~~monies~~ to cover and discharge all known and potential workers' compensation liability and **shall** allow for administrative costs in discharging the **City's** liability. **The Utilities Workers' Compensation Claim Reserve Fund balance shall include sufficient monies to cover and discharge all known and potential workers' compensation liability and shall allow for administrative costs in discharging Utilities' liability.**

(C) ~~The purpose of the workers' compensation claim reserve fund~~ **Each Fund** shall ~~be to:~~

(1) Pay workers' compensation claims and related expenses brought by its employees pursuant to ~~Colorado Revised Statutes title 8, articles 40 to 47 and 55~~ **the Colorado Workers' Compensation Law**, which the City ~~it~~ is legally obligated to pay.

(2) Pay the costs of defense, investigation, outside counsel legal fees, and other related costs in connection with claims brought pursuant to the requirements of this ~~chapter~~ **article**.

(D) ~~Monies in the workers' compensation claim reserve~~ **each fFund** shall not be used to pay any claim except those pursuant to subsection C of this section. **Neither the City nor Utilities shall commingle the monies in each Fund.**

(E) The Chief Financial Officer shall **have exclusive control over, and shall** be responsible for the management and investment of, the **City Workers' Compensation Claim Reserve Fund** ~~workers' compensation claim reserve fund~~. **The Utilities Chief Financial Officer shall have exclusive control over, and shall be responsible for the management and investment of, the Utilities Workers' Compensation Claim Reserve Fund.** All earnings collected from ~~the each fFund~~ shall ~~will~~ be credited to the ~~fFund~~ **in accordance with subsection A of this section.**

(F) ~~The minimum workers' compensation claim reserve~~ **Each fFund's** balance shall be an amount ~~approved by~~ **compliant with** the ~~Executive Director of the Colorado~~ Department of Labor and Employment **Rules.**

(G) The setting aside of reserves for self-insurance purposes in ~~the workers' compensation claim reserve funds~~ **each Fund** ~~created in this part~~ shall not be construed to ~~be creating~~ **create** an insurance company, nor shall ~~the workers' compensation claim reserve funds~~ **each Fund** otherwise be subject to the provisions of the laws of the State of Colorado regarding insurance or insurance companies.

(H) **In accord with sections 1.5.503 and 1.5.506 of this Code, the Chief Financial Officer shall approve payment requests for the City Claims Reserve Fund and the Utilities Chief Financial Officer shall approve payment requests for the Utilities Claims Reserve Fund, respectively.** ~~Disbursements made from the workers' compensation claim reserve fund for eligible expenditures shall be initiated by the preparation of a payment request or other appropriate electronic request as approved by the Chief Financial Officer. All requests for disbursements from the workers' compensation claims reserve funds~~**each Fund** shall be given the highest priority **by the City and Utilities** with respect to the processing and preparation of payments in connection with the compromise or settlement of claims or the payments of judgments.

(I) The City Auditor or any person authorized by the City Auditor shall conduct an examination as frequently as required in the judgment of the City Auditor, and in accordance with applicable laws and auditing standards, but not less frequently than once every four (4) years, to determine that proper underwriting techniques, sound funding procedures, loss reserves, claims procedures, and accounting practices are being followed in the management and operation of the ~~workers' compensation claim reserve f~~**Funds**. The City Auditor shall present a report of findings to the City Council.

Section 3. Section 603 (COMPROMISE OR SETTLEMENT OF CLAIMS) of Article 6 (Workers' Compensation) of Chapter 1 (Administration, Personnel and Finance) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

1.5.603: COMPROMISE OR SETTLEMENT OF CLAIMS:

(A) ~~It shall be the~~**The City and Utilities** ~~responsibility of claims management to shall investigate and to, admit, deny, compromise, or settle all claims filed against the City or Utilities by its~~**their respective** employees pursuant to the requirements of the ~~workers' compensation law as described in Colorado Revised Statutes, title 8, articles 40 to 47 and 55~~ **Colorado Workers' Compensation Law**, and the ~~employer's~~**City's and Utilities' respective** excess insurance ~~policy~~**policies**.

(B) In investigating claims brought against the City **and Utilities** and ~~its~~ **their respective** officials or employees, ~~claims management~~**the City and Utilities** shall have authority to seek the advice and cooperation of all **applicable City and Utilities** departments, **offices, or agencies** ~~of the City~~ with respect to establishment of facts, determination of liability, and utilization of the professional expertise of various employees within the City **and Utilities** in connection with those claims. **The**

applicable City and Utilities departments shall timely provide such Advice~~and assistance shall be provided on a timely basis.~~**advice**

Section 4. Section 604 (RULES AND REGULATIONS) of Article 6 (Workers' Compensation) of Chapter 1 (Administration, Personnel and Finance) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

1.5.604: RULES AND REGULATIONS:

~~To carry out the purposes of this article, the~~ **The City and Utilities** Risk Manager, with approval of the Director of Human Resources and in accord with Colorado Revised Statutes title 8, articles 40 to 47 and 55 may promulgate reasonable and necessary rules and regulations for the administration of workers' compensation self insurance **to administer the Funds in accordance with this Code, the City Charter, and the Colorado Workers' Compensation Law.**

Section 5. Section 605 (LITIGATION) of Article 6 (Workers' Compensation) of Chapter 1 (Administration, Personnel and Finance) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

1.5.605: LITIGATION:

(A) Pursuant to the requirements of the City Charter and this Code, the City Attorney ~~shall have the responsibility to represent the City and Utilities and its~~**their** **respective** officers and employees, ~~as applicable,~~ in connection with all litigation arising under claims brought pursuant to this article. **The City Attorney shall have the authority to contract for outside counsel in connection with litigation arising out of claims brought pursuant to this article part.**

(B) **To cover litigation expenses which are necessary to properly and reasonably defend the City or Utilities and their respective officers in connection with the litigation,** ~~The City Attorney shall have the power to authorize~~ **may** requests ~~to that~~ the **City Risk Manager or the Utilities Risk Manager** for disbursements **monies** from **the City Workers' Compensation Claim Reserve Fund or the Utilities Workers' Compensation Claim Reserve Fund, respectively,** ~~the workers' compensation claim reserve fund or~~ **from** other appropriate accounts in connection with litigation expenses. **Such expenses shall, including include,** but **are** not limited to: outside counsel fees, defense costs, expert witness fees, and

preparation of demonstrative evidence~~which is necessary to properly and reasonably defend the City and its officers in connection with the litigation.~~

(C) ~~The City Attorney shall have the authority to contract for outside counsel in connection with litigation arising out of claims brought pursuant to this article.~~

Section 6. This Ordinance shall be in full force and effect from and after its final adoption and publication as provided by Charter.

Section 7. Council deems it appropriate that this Ordinance be published by title and summary prepared by the City Clerk and that this Ordinance be available for inspection and acquisition in the office of the City Clerk.

Introduced, read, passed on first reading and ordered published this ____ day of _____, 2026.

Finally passed: _____

Lynette Crow-Iverson, Council President

ATTEST:

Sarah B. Johnson, City Clerk

CAO: _____
COS: _____