

ORDINANCE NO. 26-_____

AN ORDINANCE AMENDING MULTIPLE SECTIONS OF ARTICLE 5 (FINANCE MANAGEMENT PROCEDURES) 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 501 (Purpose and Intent) of Article 5 (Finance Management Procedures) 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:

1.5.501: PURPOSE AND INTENT:

The City Council hereby recognizes that general liability and automobile liability insurance policies are subject to cancellation and changing market prices. City Council further recognizes that self-insurance and self-insured retention is a viable means to assure protection at the least cost, and therefore, there is an extraordinary need to address methods to protect the City **and Utilities** and ~~its~~ **their** employees against claims brought under the provisions of the Colorado Governmental Immunity Act and arising under ~~Ff~~ederal law. Additionally, ~~the executive and administrative branch of the City,~~ with approval of City Council, may by agreement provide claims and claims management services to other governmental entities pursuant to the requirements of this article. The agreement shall require that the separate governmental entity's self-insurance program and fund be managed in accord with the requirements of this article unless specifically modified by the terms of the agreement. Under no circumstances shall ~~the City's Self Insurance Fund of the City's~~ **self-insurance funds** be subject to judgments, liens or encumbrances of claimants or creditors of any separate governmental entity that has contracted with the City to manage ~~its~~**their** self-insurance programs and funds. Nothing shall preclude the City from expressly agreeing with another governmental entity to front end the payment of settlements or judgments, subject to reimbursement to the City in accord with the terms of the agreement with that governmental entity.

The City Council recognizes the undesirable consequences of uninsured liability of the City **and Utilities**, including failure to respond to meritorious claims in a timely fashion and greater ultimate costs of settlement caused by failure to investigate claims in an orderly and timely manner. The City Council hereby declares that the appropriate remedy is to create ~~a Reserve Fund for purposes of self insurance of the City~~ **reserve funds that are separately managed by the City and Utilities to self-insure the City and Utilities** to the extent that insurance coverage has not been obtained. The City Council declares that the purpose of this ~~article~~ **part** is to: create a **“City Claims Reserve Fund” and a “Utilities Claim Reserve Fund”**; , provide a mechanism for claims adjustment, investigation, and defense, **for each Fund**; ~~and to~~ authorize the settlement and payment of claims and payment of judgments rendered against the City **or Utilities** for claims or judgments arising out of violation of Federal law or pursuant to any action which lies in tort or could lie in tort, regardless of whether that may be the type of cause or action chosen by the claimant. The City Council finds that, to adequately protect the City **and Utilities** and **to** carry out these purposes, it is necessary to authorize ~~the executive and administrative branch of the City and Utilities~~ to perform claims management services as promulgated in the administrative regulations outlined in the claims management ~~policy~~**policies** for the City **and Utilities**. The City Council declares that its intent is to explore the availability of commercial liability insurance policies of all types, including, but not limited to, variable deductible amounts, to ensure that the costs of protecting the City **and Utilities** against liability are minimized.

Section 2. Section 502 (Claims Reserve Fund) of Article 5 (Finance Management Procedures) 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:

1.5.502: **CITY CLAIMS RESERVE FUND; UTILITIES CLAIMS RESERVE FUND:**

(A) There is hereby created ~~etwo~~ **two funds** to be known as the **City Claims Reserve Fund and the Utilities Claims Reserve Fund (for the purposes of this part, each a “Fund” or collectively the “Funds”)**. ~~The City Claims Reserve Fund which will consist of all monies appropriated to the fundFund by the City Council or which may be otherwise made available to it by the City Council. The Utilities Claims Reserve Fund will consist of all monies appropriated to the Fund by the City Council or which may be otherwise made available to it by Utilities or the City Council.~~ The monies "otherwise made available" shall be deemed to include transfers of monies to ~~the each fund Fund~~ authorized in any given Annual Budget Ordinance. All interest earned from the investment of monies in ~~the Claims Reserve each Fund shall be credited to, that fund and become a part of, the each fund Fund.~~ The monies in ~~the each fundFund~~ are hereby continuously

appropriated for purposes of this ~~article~~**part**. The **City and Utilities** Chief Financial Officer shall account for all independent fund categories within the **City** Claims Reserve Fund **and the Utilities Claim Reserve Fund, respectively**, including ~~Utilities and Enterprise Funds if any are appropriated~~. Accounting of these funds shall be **The City and Utilities shall account for the Funds** in a manner consistent with the applicable governmental accounting standards. At the end of any fiscal year, all unexpended and unencumbered monies in ~~the Claims Reserve~~**each** Fund shall remain in ~~the each fund Fund; and such monies~~ shall not be credited or transferred to any other funds.

(B) ~~The Claims Reserve~~**Each** Fund shall maintain reserves for: **claims arising out of federal law; and** incurred, but unpaid liability claims for injuries which lie in or could lie in tort, regardless of whether that may be the type of action chosen by the claimant, ~~and for claims arising out of Federal law~~. ~~The Claims Reserve~~ **Each Fund shall maintain reserves to provide for contingency so that each Fund adequately covers the actual expenses realized by each Fund in that year ~~Fund shall maintain reserves to provide for the contingency that in any year the contribution to the Claims Reserve Fund from other funds is not adequate to cover the actual expenses realized 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 **in the City Claims Reserve Fund**. 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 in the **Utilities Claims Reserve Fund**. Adequate reserves shall be maintained in ~~the Claims Reserve~~ **each** Fund subject to available appropriations made by the City Council **to the City and Utilities, individually at its discretion**. **Nothing in this article shall preclude the City or Utilities from hiring a third party to administer programs funded by each Fund, respectively, in whole or in part.****

(C) ~~Expenditures made out of the Claims Reserve~~**Each** Fund in ~~accord with this subsection shall~~ **pay for the following regarding claims against the City and Utilities and their respective employees or officials**~~be made only for the following purposes:~~

(1) ~~To pay general~~**General** liability claims, ~~and automobile liability claims, and related expenses~~ **related to such claims**~~brought against the City, its employees or officials pursuant to~~ **under or exempted from** the Colorado Governmental Immunity Act;

(2) ~~and Claims~~ against the City and its officials or employees arising under Federal law, ~~that: which the City or Utilities~~ **are** legally obligated to pay, ~~and which are compromised or settled pursuant to this article~~**part, or in which are** a final money judgment against the City **or Utilities** ~~has been entered; and~~

~~(3) To pay~~ The costs of defense, including expert witness fees, outside counsel legal fees, investigation, and other related defense costs in connection with claims brought pursuant to the requirements of subsection C1 of this section.

~~(D) Monies in the Claims Reserve Fund shall not be used to pay any of the following~~ **Each Fund shall not pay for:**

(1) Claims for liabilities or losses which are covered under commercial insurance policies purchased by the City **or Utilities;**

(2) All claims ~~other than those which arise under Federal law or which lie or could lie in tort regardless of whether that may be the type of action chosen by the claimant~~ **not subject to the Colorado Governmental Immunity Act;**

(3) Any other claim, **cost**, or expense not set forth in subsection C of this section.

~~(E) The City Chief Financial Officer shall be responsible for the management and investment of the City Claims Reserve Fund.~~ **The Utilities Chief Financial Officer shall be responsible for the management and investment of the Utilities Claims Reserve Fund.**

~~(F) The setting aside of reserves for self-insurance purposes in the Claims Reserve~~ **each** Fund shall not be construed to ~~be creating~~ **create** an insurance company, nor shall ~~the Claims Reserve~~ **each** Fund otherwise be subject to the provisions of the laws of the State of Colorado regarding insurance or insurance companies. ~~The requirements of Colorado Revised Statutes concerning self-insurance under the Colorado Auto Accident Reparations Act are not applicable to this article.~~

(G) In accord with City Code §§ 1.5.503 and 1.5.506: the Chief Financial Officer shall approve payment requests for the City Claims Reserve Fund; and the Utilities Chief Financial Officer shall approve payment request for the Utilities Claims Reserve Fund. To pay for eligible expenses in accordance with this section, the City Risk Manager shall send payment requests to the Chief Financial Officer, and the Utilities Risk Manager shall send payment requests to the Utilities Chief Financial Officer. Disbursements made from the Claims 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 or Utilities Controller from claims management in accord with the authority set forth in sections 1.5.503 and 1.5.506 of this part. All requests for disbursements from the Claims Reserve ~~each~~ **Fund shall be given the highest priority by the Chief Financial Officer** ~~City and Utilities~~ **with respect to the processing and preparation of a**

payment request in connection with the compromise or settlement of claims or the payments of judgments.

(H) 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 ~~Claims Reserve Funds~~ or any other funds being used to cover deductible amounts when there is insurance coverage. The City Auditor shall present a report of findings to the City Council.

(I) In the City's comprehensive annual financial report, the Chief Financial Officer shall report **to City Council regarding** ~~about~~ the financial activities of the **City Claims Reserve Fund. In Utilities' comprehensive annual financial report, the Utilities Chief Financial Officer shall report to City Council about the financial activities of the Utilities Claims Reserve Fund.**

Section 3. Section 503 (Compromise Or Settlement Of Matters/Claims) of Article 5 (Finance Management Procedures) 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:

1.5.503: COMPROMISE OR SETTLEMENT OF MATTERS/CLAIMS:

(A) Requirements: ~~It shall be the~~ **The City and Utilities** ~~responsibility shall~~ of claims management to investigate, and to deny, compromise, or settle all claims filed against the City **or Utilities** or ~~its~~ **their** employees pursuant to the requirements of:

—1.—~~The Colorado Governmental Immunity Act or actions arising under Federal law in accord with this article part.~~ Prior to settling a claim ~~of fifteen thousand dollars (\$15,000.00)~~ **in accordance with this section or more**, the person authorized to settle the claim shall consult with the Manager of the affected group or department **within the City or Utilities** to determine the appropriateness of the compromise or settlement amount. The ultimate decision shall rest with the person **or persons** having the responsibility pursuant to this section to settle or compromise the claim. Nothing shall preclude the person authorized to settle or compromise the claim to refer the claim to a person with higher settlement authority, the Claims Review Board, or City Council, as appropriate.

—2.—~~The Colorado Auto Accident Reparations Act as set forth in Colorado Revised Statutes.~~

(B) Authorization: The following parties are authorized to make compromises or settlements on behalf of the City in the following amounts:

(1) The **City** Risk Manager is authorized to settle claims **under City Claims Reserve Fund, and the Utilities Risk Manager is authorized to settle claims under the Utilities Claims Reserve Fund, :**

~~——a. Pursuant to the **Colorado** Governmental Immunity Act or actions arising under ~~F~~federal law for an amount not to exceed fifty thousand dollars (\$50,000.00);~~

~~——b. Pursuant to the provisions of the Colorado Auto Accident Reparations Act as set forth in Colorado Revised Statutes;~~

(2) The City Attorney is authorized to settle matters or claims for an amount not to exceed one hundred fifty thousand dollars (\$150,000.00). The City Attorney is authorized to settle police use of force matters or claims for an amount not to exceed one hundred thousand dollars (\$100,000.00);

(3) The Claims Review Board is authorized to settle matters or claims for an amount not to exceed two hundred fifty thousand dollars (\$250,000.00). The Claims Review Board is authorized to settle police use of force matters or claims for an amount not to exceed two hundred thousand dollars (\$200,000.00);

(4) The City Council is authorized to settle matters or claims for an amount in excess of two hundred fifty thousand dollars (\$250,000.00), police use of force matters or claims in an amount in excess of two hundred thousand dollars (\$200,000.00), matters or claims for an amount not to exceed the maximum liability limits under the Colorado Governmental Immunity Act for claims which lie or could lie in tort regardless of the nature of the action which is brought by the claimant, and for any other amounts which the City Council deems appropriate with respect to claims arising under ~~F~~federal law.

(C) Report: No matters or claims shall be settled unless supported by a claims settlement report, which will give a concise statement of the nature of the matter or claim, the history of the proceedings and a recommendation from the person assigned the matter or claim on behalf of the City **or Utilities**. Claims settlement reports prepared by the City Attorney shall be protected by the attorney-client and attorney work product privileges.

(D) Cooperation And Assistance: In investigating claims brought against the City **and Utilities** and ~~its~~**their** **respective** officials or employees, the ~~Risk Manager~~**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 assistance in 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.** ~~Advice and assistance shall be provided on a timely basis.~~

(E) Examination Of Procedures; Report Of Findings: 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, the City Auditor or any person authorized by the City Auditor shall conduct an examination of the claims procedures, use of settlement authority and management and operation of claims management to determine that the use and operation of the ~~Claims Reserve Funds~~ is being accomplished in a prudent and reasonable manner. The City Auditor shall present a report of findings to the City Council.

(F) CSU And Enterprise Insurance:

(1) The Utilities and some Enterprise Fund activities have not canceled their general liability or automobile liability insurance policies. However, these insurance policies may contain self-insurance retention amounts which are the responsibility of the City. This Code enables transfers of monies set aside to cover self-insurance retention amounts of the Claims Reserve Fund if done by the City Council. If not done by the City Council, then the accounts within the respective Enterprise Funds and the Utilities Department's budgets for coverage of self-insurance retention amounts are recognized as monies that can be used in accord with Colorado Revised Statutes section 24-10-113 to pay any costs of defense, including expert witness fees, outside counsel legal fees, investigation and other related defense costs in connection with claims brought pursuant to this article and to pay any compromise, settlement or final judgment.

(2) The Utilities and other Enterprise Fund activities which have general liability and automobile liability insurance coverage with self-insurance retention amounts shall cause claims made against the Utilities or other Enterprise Fund activities to be handled up to the self-insurance retention amounts or in the case of claims under the Colorado Governmental Immunity Act, up to the damage limitations set forth in Colorado Revised Statutes section 24-10-114 in accord with this article.

(G) Disbursements: Disbursements from the ~~Claims Reserve Funds~~ or any other accounts established for the purpose of covering self- insurance retention amounts where there is general liability and automobile liability insurance coverage for claims compromised or settled shall be paid by the ~~City~~ **Chief Financial Officer** or ~~the~~ Utilities Chief Financial Officer ~~on behalf of the Utilities~~ upon payment requests drawn in accord with the law and this article. All disbursements made by the ~~City~~ **Chief Financial Officer** or ~~the~~ Utilities Chief Financial Officer shall

be duly reported in the ~~City~~ **Chief Financial Officer's** or Utilities Chief Financial Officer's annual financial reports.

Section 4. Section 504 (Claims Review Board) of Article 5 (Finance Management Procedures) 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:

1.5.504: **CITY CLAIMS REVIEW BOARD; UTILITIES CLAIMS REVIEW BOARD:**

(A) There is hereby created: a **"City Claims Review Board"** which shall consist of the Mayor **or their designee**, ~~for claims against the City, or the Utilities Chief Executive Officer, for claims against the Utilities,~~ the City Attorney **or their designee**, the ~~City's or Utility's~~ Chief Financial Officer **or their designee**, and the affected **City** department, division, office or agency Director or Manager; **and a "Utilities Claims Review Board", which shall consist of the Chief Executive Officer or their designee, the City Attorney or their designee, the Utilities Chief Financial Officer or their designee, and the affected Utilities department, division, office or agency Director or Manager. The City Claims Review Board and the Utilities Claims Review Board are each a "Board" and are collectively the "Boards" under this section.** ~~The Claims Review~~ **Each** Board shall meet only when required to determine whether or not to compromise or settle a claim within the authorities provided in this chapter. **To constitute a quorum, three three (3) members on each Board must be present either in person or electronically** ~~shall constitute a quorum of the Board.~~

(B) The **City Risk Manager and the Utilities Risk Manager** shall act as the ~~Secretary of the respective Claims Review Boards,~~ and shall be responsible for preparing its agendas and providing the Boards with all applicable reports and documentation necessary to properly assess claims brought before ~~it~~ **them**.

(C) ~~It shall be the responsibility of the~~ **The City Attorney shall** ~~Risk Manager and the City Attorney to prepare a claims assessment with the City Risk Manager or the Utilities Risk Manager, as appropriate,~~ in connection with each claim brought before ~~the~~ **each** Board. The claims assessment shall meet all of the requirements, as a minimum, of the claims settlement report described in this ~~chapter~~ **part**.

(D) ~~The Each~~ Board shall have the following powers and duties:

(1) To compromise or settle claims on behalf of the City **or Utilities** and ~~its~~ **their** officials and employees in amounts authorized in section 1.5.503 of this ~~part~~ **Code**.

(2) To adopt rules governing ~~its~~**their** own organization and proceedings.

(3) To advise in the management of ~~the Claims Reserve~~ **each** Fund created pursuant to this part and activities arising in connection with the settlement or compromise of claims brought against the City **or Utilities, and** ~~its~~**their** officials and employees.

Section 5. Section 505 (Claims Review Board) of Article 5 (Finance Management Procedures) 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:

1.5.505: RULES AND REGULATIONS:

The City and Utilities may promulgate reasonable and necessary rules and regulations to administer the Funds in accordance with this Code, the City Charter, and all applicable laws. ~~To carry out the purposes of this article, the Risk Manager may promulgate reasonable rules and regulations governing the administration of claims management programs.~~

Section 6. Section 506 (Claims Review Board) of Article 5 (Finance Management Procedures) 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:

1.5.506: LITIGATION:

(A) Pursuant to the requirements of City Charter and this chapter, the City Attorney shall have the responsibility to represent the City **and Utilities, and** ~~its~~**their** boards and commissions, officers and employees, as applicable, in connection with all litigation arising under claims brought pursuant to this article.

(B) The City Attorney shall have the authority to settle litigation up to one hundred fifty thousand dollars (\$150,000.00), with settlements up to two hundred fifty thousand dollars (\$250,000.00) having the prior approval of the **City Claims Review Board or the Utilities Claims Review Board**, and settlements over two hundred fifty thousand dollars (\$250,000.00) with the prior approval of City Council. For settlements of police use of force litigation only, the City Attorney

shall have the authority to settle litigation up to one hundred thousand dollars (\$100,000.00), with settlements up to two hundred thousand dollars (\$200,000.00) having the prior approval of the **City** Claims Review Board, and settlements over two hundred thousand dollars (\$200,000.00) with the prior approval of City Council. Nothing herein precludes the City Attorney from exercising discretion in presenting any settlement, regardless of amount, to the **respective Claims Review Board and/or** City Council for prior approval.

(C) To cover litigation expenses which are necessary to properly and reasonably defend the City or Utilities and their respective officers and employees in connection with the litigation, the City Attorney may request that the City Risk Manager or the Utilities Risk Manager disburse monies from the City Claims Reserve Fund or the Utilities Claims Reserve Fund, respectively, or from other appropriate accounts. Such expenses shall include, but are not limited to: outside counsel fees, defense costs, expert witness fees, and preparation of demonstrative evidence. ~~The City Attorney shall have the power to authorize requests to the Risk Manager for disbursements from the Claims Reserve Fund or any other appropriate account in connection with litigation expenses, including, but 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, its officers and employees in connection with the litigation.~~

(D) 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**, and may request disbursements from the **City** Claims Reserve Fund, **the Utilities Claims Review Board**, or another appropriate fund.

(E) In addition to the monthly litigation report, the City Attorney shall be responsible for providing a litigation settlement report to the City Council, Mayor, **City** Risk Manager, **Utilities Risk Manager**, and to the ~~Utilities~~ Chief Executive Officer ~~for litigation cases pertaining to Utilities~~ for all cases which have been settled without the prior knowledge of City Council pursuant to the requirements of this chapter. Litigation settlement reports prepared by the City Attorney shall be protected by the attorney-client and attorney work product privileges.

Section 7. This Ordinance shall be in full force and effect from and after its final adoption and publication as provided by Charter.

Section 8. 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: ____