



ORDINANCE NO. 28969

1 AN ORDINANCE relating to City officer and employee protections; amending
2 Chapter 1.12 of the Municipal Code, relating to the Compensation Plan, by
3 amending Section 1.12.920, entitled "Protection of officers and employees
4 against personal legal liability," and Section 1.12.940, entitled "Determination
5 of scope of employment," to comply with the requirements of Washington
6 State law regarding defense of City officers and employees for acts in the
7 course of employment.

8 WHEREAS Washington State law sets specific standards for circumstances
9 in which all local governments in Washington must defend and indemnify their
10 officers and employees for acts or omissions in the scope of their official duties,
11 and

12 WHEREAS the standards set forth in Tacoma Municipal Code ("TMC")
13 Chapter 1.12 were enacted prior to those in State law and have never been
14 amended to conform to the statewide requirements, and

15 WHEREAS, while the requirements of State law on this issue would control
16 over conflicting local code, in order to avoid a perception of conflict and provide
17 clear guidance it is necessary to amend the TMC to conform to State law; Now,
18 Therefore,

19 BE IT ORDAINED BY THE CITY OF TACOMA:

20 Section 1. That the City Council hereby adopts the Recitals of this
21 Ordinance as its formal legislative findings.

22 Section 2. That Sections 1.12.920 and 1.12.940 of the official Municipal
23 Code of the City of Tacoma, respectively entitled "Protection of officers and
24 employees against personal legal liability," and "Determination of scope of
25
26



employment,” are hereby amended to read as set forth in Exhibit “A” to this Ordinance, which exhibit is incorporated herein by this reference.

Section 3. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance or its application to any person or situation should be held to be invalid or unconstitutional for any reason by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Ordinance or its application to any other person or situation.

Section 4. Effective Date. This Ordinance shall be effective ten days after its publication.

Section 5. That the City Clerk, in consultation with the City Attorney, is authorized to make necessary corrections to this ordinance, including, but not limited to, the correction of scrivener’s/clerical errors, references, ordinance numbering, section/subsection numbers, and any references thereto.

Passed _____

Mayor

Attest:

City Clerk

Approved as to form:

Chief Deputy City Attorney



EXHIBIT "A"

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EMPLOYEE LEGAL PROTECTION

1.12.920 Protection of officers and employees against personal legal liability.

It shall be a condition of employment of City officers and employees that in the event claims and/or litigation for personal injuries, wrongful death, property damage or any damages occasioned by any negligent act, error or omission by such officers or employees ~~in the scope and course of their duties or employment,~~ while performing or in good faith purporting to perform official duties, are made against such officers or employees, the City Attorney of the City of Tacoma shall, at the request of or on behalf of said officers or employees, investigate and defend such claims and/or litigation. In addition, police officers and other employees vested with the power of arrest shall receive the same protection for acts occurring in the course and the scope of their employment wherein claims or civil litigation are initiated against them involving false arrest, assault and/or battery, wrongful detention or imprisonment, malicious prosecution, violation of rights of privacy, discrimination, wrongful entry or eviction or other rights of private occupancy. If a claim be deemed by the City Attorney to be a proper one or if judgment be rendered against such offices or employees, such claim or judgment shall be paid by the City in accordance with procedures established for the payment of claims and judgments against the City; provided, that said officers or employees shall, in the event of an accident or occurrence, as soon thereafter as practical, give the City Attorney's office written notice thereof, identifying the officers or employees involved and containing information with respect to the time, place and circumstances thereof, and the names and addresses of the injured, and of any available witnesses, and shall forward to the City Attorney's office every demand, notice, summons or other process relating to said incident, and received by him or her or their representative, and shall cooperate with the City Attorney, his staff or any claims representative retained by the City upon request, and shall further assist in making settlements, in the conduct of suits and enforcing any claim or any right of contribution or indemnity against any person or organization who may be liable to the City because of bodily injury, property damage or other loss arising from the accident, incident or occurrence, and such officers or employees shall attend interviews, depositions, hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses, and said officers and employees shall not, except at their own cost, voluntarily make any payment, assume any obligation or incur any expense other than for first aid to others at the time of an accident; provided further, that in the event any such officers or employees fail or refuse to cooperate as specified in the above proviso, or elects to provide his or her legal representation with respect to claims and/or litigation arising out of the officer's or employee's acts or duties in the scope of his or her employment by the City, provisions of this chapter will be inapplicable and of no force and effect with respect to any such claim and/or litigation; provided further, that the obligations assumed under this section by the City and the City Attorney's office shall not apply to any dishonest, fraudulent, criminal or malicious act.

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1.12.940 Determination of scope of employment.

The determination of whether the acts or omissions of said officers or employees were, or in good faith purported to be, within the scope of his or her official duties, ~~were acting within the scope and course of his or her employment by the City~~ shall be made by his, her, or their department head, or in the case of such a claim or litigation against the department head, by the City Manager, and in the case of any elected official of the City, by the City Attorney; in the event the determination cannot be made with reasonable certainty, then he or she shall have the option to refer the matter to the Superior Court for determination.

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