ORDINANCE NO. 29005

AN ORDINANCE relating to claims; amending Chapter 1.06 of the Municipal Code, relating to Administration, to repeal Sections 1.06.228, 1.06.229, 1.06.230, and 1.06.231, and to repeal, replace, and rename Section 1.06.226 as “Claims and Collections”, to update and consolidate the claims and collections procedures and provide for an increase in administrative settlement authority.

WHEREAS the City’s claims and collections procedures are found at Tacoma Municipal Code (“TMC”) Section 1.06.226 (Cancellation of Amounts Due); TMC Section 1.06.228 (Claims Against City); TMC Section 1.06.229 (Claims – Settlement); TMC Section 1.06.230 (Claims – Releases); and TMC Section 1.06.231 (Claims – Prosecution), and

WHEREAS these procedures establish the process and authority for persons to file claims with the City, for the City to review and settle or deny such claims, for the City to collect and write-off amounts that are owed to the City, and for the City to pursue torts, contracts, and other claims that it may have against third parties, and

WHEREAS the City Attorney’s Office and Finance Department recommend that the claims and collections procedures be updated for clarity and efficiency, to increase administrative settlement authority in alignment with current experiences and risk management practices, and to expedite the claims settlement process, and

WHEREAS the proposed changes to Chapter 1.06 of the TMC will consolidate the claims and collection process within Section 1.06.226 to (a) create a centralized and better organized format for claims and collections; (b) clarify and provide authority for the Finance Director to collect and settle amounts due to the City, such as past due utility bills and amounts owed to the City arising from damage to City property, to align with current risk claims and collections practices and procedures; (c) increase the dollar amount that claims may be settled administratively to expedite the claims settlement process and to, when appropriate, resolve claims more quickly and to minimize litigation expenses; (d) increase the Finance Director's settlement and write-off authority for amounts due, to align the settlement authority with current risk management practices and to improve the efficiency of this process; and (e) align claims filing procedures with state law, and

WHEREAS at the June 18, 2024, meeting of the Government Performance and Finance Committee ("Committee"), the City Attorney's Office and Finance Department presented the proposed changes to the Committee which forwarded the proposed changes to the full City Council for consideration, and

WHEREAS at the November 5, 2024, City Council study session, the City Attorney's Office presented additional background information to the City Council, and in response to comments received prepared additional amendments to settlement authority set forth in the proposed ordinance, and

WHEREAS based upon the foregoing, the City Council finds that the proposed ordinance is in the best interest of the City; Now, Therefore,

BE IT ORDAINED BY THE CITY OF TACOMA:

Section 1. That the following Sections of the Tacoma Municipal Code ("TMC") are hereby repealed in their entirety: Section 1.06.228 (Claims Against City); Section 1.06.229 (Claims – Settlement); Section 1.06.230 (Claims – Releases); and Section 1.06.231 (Claims – Prosecution).

Section 2. That Section 1.06.226 of the TMC (Cancellation of Amounts Due) is hereby repealed, re-enacted, and renamed "Claims and Collections", reading as set forth in attached Exhibit "A," incorporated herein by this reference.

Section 3. 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:

_____
City Attorney

EXHIBIT "A"

CHAPTER 1.06
ADMINISTRATION

Sections:

* * *

1.06.226 Claims and Collections~~Cancellation of amounts due~~.
1.06.227 Application of Sections 1.06.221 –1.06.225.
1.06.228 Repealed~~Claims against City~~.
1.06.229 Repealed~~Claims – Settlement~~.
1.06.230 Repealed~~Claims – Releases~~.
1.06.231 Repealed~~Claims – Prosecution~~.

* * *

1.06.226 Claims and Collections. ~~Cancellation of amounts due.~~

A. Collection of amounts due. The Director of Finance, or designee, is authorized to collect all amounts determined by the Director to be due to any department of the City, including its public utilities, and arising from a judgment or lawful debt or a claim at law or in contract, equity or tort. Nothing herein shall prevent the Director of Finance, as approved by the City Manager for general governmental departments and the Director of Utilities for the Department of Public Utilities, as the case may be, from employing collection agencies of recognized competence and repute for the purpose of attempting to collect through assignment thereto, all or any portion of any amounts due which have been heretofore canceled and written off the City's books pursuant to this section, except where prior settlement thereof has extinguished the liability of the debtor to the City. The City Risk Manager, or designee, and designees of the City Attorney are authorized to represent the City of Tacoma in matters filed in small claims court.

B. Cancellation and settlement of amounts due.

1. Amounts in excess of $100,000. Except as provided in subsection C of this section, no amounts in excess of $100,000.00 which are due any department of the City, including its public utilities, and arising from a judgment or lawful debt or a claim at law or in contract, equity or tort, shall be canceled, written off, reduced or otherwise compromised and settled without the authorization therefor by a resolution or motion of, (a) for amounts due a division of the Department of Public Utilities, the Public Utility Board, upon recommendation of the City Attorney and Director of Utilities, and (b) for all other amounts due, the City Council, upon recommendation of the City Manager and the City Attorney.

2. Amounts due in excess of $10,000 and no greater than $100,000. Such amounts due the City which are in excess of $10,000 but which are no greater than $100,000 may, after reasonable efforts for the collection thereof have been exhausted, be authorized to be canceled, written off, reduced or otherwise compromised and settled in whole or in part upon recommendation of the Finance Director and City Attorney and (a) for amounts due a division of the Department of Public Utilities, the Director of Utilities, or designee, and (b) for all other amounts due, the City Manager or designee.

3. Amounts no greater than $10,000. Such amounts due the City which are no greater than $10,000 may, after reasonable efforts for the collection have been exhausted, be authorized to be canceled, written off, reduced or otherwise compromised and settled in whole or in part, upon approval of the Superintendent of the affected Utility Division or Director of the affected Department, or their designees, based on written procedures developed and approved by the Director of Finance.

C. Claims - Prosecution. The City Attorney shall prosecute all claims and actions in favor of the City that arise at law or in contract, equity or tort, and may also institute, or cause to be instituted, an action in a court of competent jurisdiction or before an administrative tribunal, for such purpose with the

approval of the Director of Utilities for such claims and actions in favor of a division of the Department of Public Utilities, and the City Manager for all other such claims and actions in favor of the City. All such claims and actions prosecuted by the City Attorney may be compromised and settled by the City Attorney; provided that, claims and actions that exceed $100,000 may be compromised and settled only with the approval of the City Manager for general governmental matters, and the Director of Utilities for Department of Public Utilities matters.

D. Claims against City.[1]

1. Filing. All claims for damages against the City shall be presented in writing and filed with the Office of the City Clerk. A claim is deemed presented when the claim form is complete and delivered in person or is received by the Office of the City Clerk by regular mail, registered mail, or certified mail, with return receipt requested, to the Office of the City Clerk, or upon submission of a claim through the City's on-line claim portal.

2. Content. All claims for damages shall conform to the content requirements set forth under applicable state law.

E. Settlement of claims against the City.

1. Claims exceeding $100,000. No claims or actions seeking damages or other relief against the City may be compromised and settled in an amount exceeding $100,000, except upon authorization by a resolution or motion of the City Council, and upon recommendation of the City Attorney, and the Public Utilities Director and Public Utility Board for claims and actions against a division of the Department of Public Utilities, and the City Manager for all other such claims and actions.

2. Claims exceeding $50,000 and not exceeding $100,000. All claims or actions seeking damages or other relief against the City in an amount greater than $50,000 and not exceeding $100,000 may be compromised and settled with the approval of the City Attorney and the Director of Utilities for claims against a division of the Department of Public Utilities, and the City Manager for all other such claims. A warrant may be issued upon the appropriate claim fund at the direction of the Director of Public Utilities for claims or actions against a division of the Department of Public Utilities, and the City Manager for all other such claims or actions.

3. Claims not exceeding $50,000. All claims or actions seeking damages or other relief against the City in an amount not exceeding $50,000 may be settled with the approval of the City Attorney. A warrant may be issued upon the appropriate claim fund at the direction of the City Attorney.

4. Claim settlement amount determined. The amount of the settlement shall constitute the amount of the claim or action under the above limitations.

5. Authority. The City Attorney, or designee, is authorized to deny claims and actions against the City as the City Attorney shall deem proper. The authority set forth herein of the City Attorney to compromise and settle claims may be delegated by the City Attorney, in writing, in an amount up to $20,000 to appropriate City staff person(s). The writing that delegates said authority must specify the amount of authority and the types of claims to be approved for settlement and include the release forms to be used. All releases shall be in the form prescribed by the City Attorney and shall be retained by the Legal Department as required by the Washington State General Records Retention Schedule for local governments.

~~No amounts in excess of $25,000.00 which are due any department of the City, including its public utilities, from any individual or corporate debtor thereto under the provisions of leases, contracts, other instruments or agreements, or under provisions of rate or other ordinances or resolutions, or which are due and legally enforceable from any person, corporation or insurance company as a result of damages to City property, shall be canceled, written off, reduced or otherwise compromised without the authorization~~

[1] See also Charter Section 9.3 and Chapter 1.20 – Obligations of City.

~~therefor by a resolution or motion of the City Council or of the Public Utility Board upon recommendation of the City Manager for the general government and upon recommendation of the Director of Utilities for the Department of Public Utilities, as the case may be.~~

~~Such amounts due the City which are in excess of $5,000 but which are no greater than $25,000 may, after reasonable efforts for the collection or settlement thereof have been exhausted, be authorized to be canceled, written off or settled in part upon recommendation of a Department's Administrative Officer and with the approval of the City Attorney and Director of Finance for general governmental departments or the approval of the Director of Utilities for the Department of Public Utilities, as the case may be.~~

~~Such amounts due the City which are no greater than $5,000 may, after reasonable efforts for the collection or settlement thereof have been exhausted, be authorized to be canceled, written off or settled in part upon approval of the Department's Administrative Officer, based on written procedures developed by the Director of Finance and approved by the City Manager or the Director of Public Utilities, as may be appropriate.~~

~~Nothing herein shall prevent the Director of Finance, as approved by the City Manager for general governmental departments and the Director of Utilities for the Department of Public Utilities, as the case may be, from employing collection agencies of recognized competence and repute for the purpose of attempting to collect through assignment thereto, all or any portion of any accounts which have been heretofore canceled and written off the City's books pursuant to this section, except where prior settlement thereof has extinguished the liability of the debtor to the City.~~

*** * ***

1.06.228 Repealed. *Claims against City.*

~~A. All claims for damages against the City shall be presented in writing and filed with the City Clerk.~~

~~B. All claims for damages shall accurately state the time, place, cause, nature, and extent of the alleged damages, the names of all persons involved, if known, and shall contain the amount of damages claimed, together with a statement of the actual residence of the claimant by street and number at the date of presenting such claim, and for six months immediately prior to the time such claim for damages accrued, and shall be verified by affidavit of the claimant or such other person as may be authorized by law to verify such claims, to the effect that the same is true. The omission to present any such claim in the manner hereinabove prescribed shall be a bar to any action for damages arising out of tortious conduct against the City therefor. No action shall be commenced against the City for damages arising out of tortious conduct until 60 days have elapsed after the claim for damages has first been presented to and filed with the City Clerk.~~

~~C. The applicable period of limitations within which an action arising out of tortious conduct must be commenced shall be tolled during the 60-day period after the claim has first been filed.~~

~~D. Filing a claim for damages within the time allowed by law shall be a condition precedent to the commencement of any action claiming damages arising out of tortious conduct.~~

1.06.229 Repealed. *Claims – Settlement.*

~~All claims in an amount not exceeding $10,000 may be settled with the approval of the City Attorney, and a warrant issued upon the appropriate claim fund at his or her direction. All claims in an amount greater than $10,000 and not exceeding $30,000 may be settled with the approval of the City Attorney and the City Manager for general government departments, and with the approval of the City Attorney and the Director of Utilities for divisions of the Department of Public Utilities, and a warrant issued upon the appropriate claim fund at the direction of the City Manager for general government departments, and at the direction of the Director of Utilities for the Department of Public Utilities transactions. All claims in excess of $30,000 may be settled only with the approval of the City Council: (1) Upon recommendation of the City Manager for general government departments, and (2) upon recommendation of the Public Utility Board for the Department of Public Utilities. The amount of the settlement shall~~

~~constitute the amount of the claim under the above limitations. The City Attorney is authorized to deny claims as he or she shall deem proper.~~

~~The authority set forth herein of the City Attorney to settle claims not to exceed $10,000 may be delegated by the City Attorney, in writing, to appropriate City staff person(s). The writing that delegates said authority must specify the amount of authority and the types of claims to be approved for settlement and include the release forms to be used.~~

1.06.230 Repealed. *Claims – Releases.*

~~All releases shall be in the form prescribed by the City Attorney, and shall be retained by the Legal Department as required by the Washington State General Records Retention Schedule for local governments.~~

1.06.231 Repealed. *Claims – Prosecution.*

~~The City Attorney shall prosecute and collect all claims, either contract or tort, in favor of the City and against third parties, and may institute action in a court of competent jurisdiction for such purpose with the approval of the City Manager if involving general governmental matters, and with the approval of the Director of Utilities if involving Department of Public Utilities matters. All such claims may be compromised only with the approval of the City Manager for general governmental matters, or the Director of Utilities for Department of Public Utilities matters. All releases required for the compromise and settlement of such claims shall be in a form approved by the City Attorney and shall be signed on behalf of the City by the City Manager or the Director of Utilities, as the case may be.~~

* * *

* * *