

1 Introduced by the Council President at the request of the Sheriff and
2 Co-Sponsored by Council Members Howland, Miller, Arias, J. Carlucci,
3 Amaro, Lahnen, Freeman, White and Carrico and amended by the Finance
4 Committee and twice amended on the Floor of Council:
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7 **ORDINANCE 2024-45-E**

8 AN ORDINANCE AMENDING SECTION 112.307 (CLAIMS
9 AND SUITS BROUGHT AGAINST THE CITY FOR MONETARY
10 RELIEF), PART 3 (SETTLEMENT OF CLAIMS AND SUITS
11 BY AND AGAINST CITY), CHAPTER 112 (CLAIMS BY AND
12 AGAINST CITY), *ORDINANCE CODE*, SECTION 128.313
13 (SETTLEMENT OF CLAIMS), SUBPART C (SETTLEMENT
14 AND SPECIAL COUNSEL), PART 3 (SELF-INSURANCE
15 PROGRAM), CHAPTER 128 (RISK MANAGEMENT PROGRAM),
16 *ORDINANCE CODE*, TO REQUIRE NOTICE TO AND
17 APPROVAL BY ANY CONSTITUTIONAL OFFICER OF ANY
18 SETTLEMENT OF CLAIMS BROUGHT AGAINST SUCH
19 INDIVIDUAL, THEIR AGENCY OR ANY OF THEIR
20 EMPLOYEES FOR WHOM COVERAGE IS PROVIDED PURSUANT
21 TO SECTION 128.104, *ORDINANCE CODE*, OR FOR WHICH
22 SETTLEMENT IS AUTHORIZED PURSUANT TO SECTION
23 112.307, *ORDINANCE CODE*, AND SECTION 128.408
24 (INSURANCE CLAIMS, SETTLEMENTS AND PROCEEDS),
25 PART 4 (ADMINISTRATION AND MISCELLANEOUS
26 INSURANCE PROGRAMS), CHAPTER 128 (RISK
27 MANAGEMENT PROGRAM), *ORDINANCE CODE*;
28 ESTABLISHING A PROSPECTIVE DATE OF APRIL 1,
29 2024, FOR THE CODE AMENDMENTS OUTLINED IN THIS
30 ORDINANCE TO BECOME EFFECTIVE; PROVIDING FOR
31 SEVERABILITY; PROVIDING FOR CODIFICATION

1 INSTRUCTIONS; PROVIDING AN EFFECTIVE DATE.
2

3 **WHEREAS**, pursuant to Sections 128.102 and 128.104, *Ordinance*
4 *Code*, the City is self-insured against personal injury, accident and
5 other tort-related claims against the City, its elected officials,
6 certain Independent Agencies and their employees who acted within
7 their course and scope of their employment and volunteers acting in
8 good faith and in the best interest of their agency; and

9 **WHEREAS**, the City's Risk Manager administers the Risk
10 Management program created in the Risk Management Code, Chapter 128
11 *Ordinance Code*; and

12 **WHEREAS**, Section 128.313, *Ordinance Code*, authorizes and
13 provides a procedure for the settlement of such claims by the Risk
14 Manager; and

15 **WHEREAS**, non-personal injury, non-accident and other
16 non-tort-related claims for monetary damages that are not encompassed
17 within Chapter 128, *Ordinance Code*, are authorized to be settled by
18 the City pursuant to the procedures in Section 112.307, *Ordinance*
19 *Code*; and

20 **WHEREAS**, neither the existing provisions of Section 128.313,
21 *Ordinance Code*, nor Section 112.307, *Ordinance Code*, provide any
22 requirement for the Constitutional Officer (who has been personally
23 named, whose agency or employee has been named, or who is the subject
24 of claims made in any civil litigation seeking monetary damages or
25 other relief) to be consulted or to participate in settlement
26 discussions, negotiations or decisions that may impact the operation,
27 reputation or image of their office; now therefore

28 **BE IT ORDAINED** by the Council of the City of Jacksonville:

29 **Section 1. Amending Section 112.307 (Claims and suits**
30 **brought against the City for monetary relief), Part 3 (Settlement of**
31 **Claims and Suits by and Against City), Chapter 112 (Claims by and**

1 **Against City), Ordinance Code.** Section 112.307 (Claims and suits
2 brought against the City for monetary relief), Part 3 (Settlement of
3 Claims and Suits by and Against City), Chapter 112 (Claims by and
4 Against City), *Ordinance Code*, is hereby amended to read as follows:

5 **CHAPTER 112. CLAIMS BY AND AGAINST CITY**

6 * * *

7 **PART 3. SETTLEMENT OF CLAIMS AND SUITS BY AND AGAINST CITY**

8 * * *

9 **Sec. 112.307. - Claims and suits brought against the City for monetary**
10 **relief.**

11 (a) Whenever there shall be a bona fide reasonable doubt or dispute
12 as to liability or amount due on any claim or in any court action
13 brought against the City seeking monetary relief, such claim,
14 whether in litigation or not, shall be compromised and settled
15 as follows:

16 (1) If the amount of the settlement of such claim is less than
17 \$5,000: When the appropriate department head or the
18 Sheriff, Clerk of Court, Property Appraiser, Tax Collector
19 or Supervisor of Elections (individually each a
20 "Constitutional Officer"), as the case may be, or his or
21 her designee, deems in writing that it is in the best
22 interest of the City and his or her agency or office to
23 settle the claim or court action and has the written
24 concurrence of the General Counsel or his Assistant
25 Counsel, such department head or Constitutional Officer
26 listed above or his or her designee may authorize
27 settlement of the claim.

28 (2) If the full amount of such claim is \$5,000 or greater:

29 (i) When the amount of the settlement of the claim or
30 court or administrative action against the City,
31 including attorneys' fees and costs, does not exceed

1 the sum of \$10,000, if the General Counsel deems in
2 writing that it is in the best interest of the City
3 to settle the claim or court action, and upon
4 receiving written approval of the appropriate
5 department head or the appropriate Constitutional
6 Officer or his or her designee, as applicable, the
7 General Counsel shall have authority to compromise
8 and settle the claim.

9 (ii) When the total amount of the settlement, including
10 attorneys' fees and costs, exceeds the sum of \$10,000,
11 but does not exceed the sum of \$50,000, the Mayor
12 shall have the authority to compromise and settle the
13 claim upon receipt of favorable written
14 recommendations from the General Counsel and upon
15 receiving written approval of the appropriate
16 Constitutional Officer or his or her designee, and
17 either the Director of Finance and Administration or
18 the Chairman of the City Council Finance Committee,
19 that they deem it to be in the best interests of the
20 City to settle the claim or court action. ~~An~~
21 ~~independent recommendation, either favorable or~~
22 ~~unfavorable, shall be received by the Mayor from each~~
23 ~~of the above-named officials when the claim is~~
24 ~~settled.~~

25 (iii) When the total amount of such settlement, including
26 attorneys' fees and costs, exceeds \$50,000, such
27 claim and court or administrative action brought
28 against the City can be settled only by approval of
29 the City Council.

30 (3) The appropriate department head or appropriate
31 Constitutional Officer or his or her designee, with written

concurrence of the General Counsel, shall authorize, in writing, the appeal of an adverse ruling against the City.

* * *

Section 2. Amending Section 128.313 (Settlement of claims), Subpart C (Settlement and Special Counsel), Part 3 (Self-Insurance Program), Chapter 128 (Risk Management Program), Ordinance Code.

Section 128.313 (Settlement of Claims), Subpart C (Settlement and Special Counsel), Part 3 (Self-Insurance Program), Chapter 128 (Risk Management Program), *Ordinance Code*, is hereby amended to read as follows:

CHAPTER 128. RISK MANAGEMENT PROGRAM

* * *

PART 3. SELF-INSURANCE PROGRAM

* * *

SUBPART C. SETTLEMENT AND SPECIAL COUNSEL

Sec. 128.313. - Settlement of claims.

(a) Claims arising from any of the risks covered by the Self-Insurance Program, shall be settled as follows, provided however, that in no instance can any claim, other than a claim for workers' compensation or property damage, against the Sheriff, Clerk of Court, Property Appraiser, Tax Collector or Supervisor of Elections (individually each a "Constitutional Officer"), or any of their respective employees or agencies, be settled unless it has been approved in writing by the appropriate Constitutional Officer or his or her designee or, in the case of suits against an individual employee of a Constitutional Officer who acted within the course and scope of his or her employment, approval of the employee:

(1) Claims that can be settled in the field, by the City's authorized adjusters on behalf of the Self-Insurance Program, may be settled (including the provision and

1 acceptance of releases on behalf of the Participant
2 involved), without the necessity of obtaining prior
3 approval of the settlement provided the settlement does
4 not exceed \$5,000 for bodily injury and \$5,000 for property
5 damage per occurrence.

6 (2) All settlements of claims that do not exceed \$50,000, and
7 are not in litigation, the Risk Manager or Director, upon
8 deeming it to be in the best interest of the Self-Insurance
9 Program to settle the claim, shall have the authority to
10 accept or give proper releases on behalf of the
11 participants involved and to settle the claims (but he or
12 she may not settle claims arising out of the same
13 occurrence exceeding in the aggregate of the limitation of
14 liability and specified in F.S. § 768.28(5), where
15 applicable, as amended).

16 (3) All settlements of claims that do not exceed \$50,000, but
17 are in litigation, the Director and the Risk Manager, upon
18 deeming it to be in the best interest of the Self-Insurance
19 Program to settle the claim, with the concurrence of the
20 General Counsel or his or her designee, shall have the
21 authority to accept or give proper releases on behalf of
22 the participants involved and to settle the claims (but he
23 or she may not settle claims arising out of the same
24 occurrence exceeding in the aggregate of the limitation of
25 liability and specified in F.S. § 768.28(5), where
26 applicable, as amended).

27 (4) All settlements of claims exceeding \$50,000, but not
28 exceeding \$200,000, the Director, upon a favorable written
29 recommendation of the Risk Manager and the General Counsel,
30 or his or her designee, upon deeming it to be in the best
31 interest of the Self-Insurance Program to settle the claim,

1 shall have the authority to accept or give proper releases
2 on behalf of the participants involved and to settle the
3 claims (but he or she may not settle claims arising out of
4 the same occurrence exceeding in the aggregate of the
5 limitation of liability and specified in F.S. § 768.28(5),
6 where applicable, as amended).

7 (5) For all settlements of claims exceeding \$200,000, the
8 Mayor, upon the written recommendation of the Risk Manager,
9 General Counsel or his or her designee, the Director, and
10 the Council President ~~chairperson of the Council Finance~~
11 ~~Committee~~, that they deem it to be in the best interest of
12 the Self-Insurance Program to settle the claim, shall have
13 the authority to accept or give proper releases on behalf
14 of the participant involved and to settle the claims (as
15 long as such settlement does not exceed those limitations
16 of liability established in F.S. § 768.28(5), where
17 applicable, as amended).

18 (b) The authority granted by this Section shall be applicable only
19 to claims arising out of the risks covered by the Self-Insurance
20 Program. Otherwise, the provisions of Chapter 112 shall be
21 applicable to the settlement of claims and suits by or against
22 the City.

23 (c) Notwithstanding anything in the Ordinance Code to the contrary,
24 the General Counsel or the Director are authorized to employ
25 outside general counsel and special counsel, from time to time,
26 to perform legal services in connection with claims asserted
27 against the Self-Insurance Program. The employment of outside
28 general counsel and special counsel, and the compensation to be
29 paid thereto, shall be subject to the prior written concurrence
30 of the General Counsel or his or her designee, the Director or
31 the Budget Officer, and either the chairperson of the Council

1 Finance Committee or the Council President. Outside general
2 counsel and special counsel employed under the provisions of
3 this subsection shall be paid as Claim Expense from the
4 Self-Insurance Program, as provided in section 128.306.

5 (d) Subject to the right of review of the Mayor or Director, all
6 strategic decisions related to the settlement of claims covered
7 by the Self-Insurance Program, not otherwise provided for
8 herein, including but not limited to decisions related to the
9 expenditure of costs and decisions to appeal, shall be made by
10 the Risk Manager after consultation, as appropriate, with the
11 Office of General Counsel and, regarding decisions to appeal
12 claims, except for workers' compensation and property damage,
13 against the Sheriff, Clerk of Court, Property Appraiser, Tax
14 Collector or Supervisor of Elections, or any of their respective
15 employees or agencies, with the concurrence of the appropriate
16 Constitutional Officer or his or her designee or, in the case
17 of suits against an individual employee, approval of the
18 employee.

19 (e) In the event of a disagreement between the Constitutional
20 Officer or individual employee of the Constitutional Officer,
21 as applicable, and the individuals authorized to settle claims
22 or make recommendations to authorized persons as to the
23 settlement or disposition of a claim, including decisions
24 related to appeal of a claim against a Constitutional Officer,
25 their respective employees or agencies, or an individual
26 employee of the applicable Constitutional Officer pursuant to
27 this Section, the Council President shall make the final
28 determination as to settlement or appeal.

29 **Section 3. Amending Section 128.408 (Insurance claims,**
30 **settlements and proceeds), Part 4 (Administration and Miscellaneous**
31 **Insurance Programs), Chapter 128 (Risk Management Program), Ordinance**

1 **Code.** Section 128.408 (Insurance claims, settlements and proceeds),
2 Part 4 (Administration and Miscellaneous Insurance Programs), Chapter
3 128 (Risk Management Program), *Ordinance Code*, is hereby amended to
4 read as follows:

5 **CHAPTER 128. RISK MANAGEMENT PROGRAM**

6 * * *

7 **PART 4. ADMINISTRATION AND MISCELLANEOUS INSURANCE PROGRAMS**

8 * * *

9 **Sec. 128.408. - Insurance claims, settlements and proceeds.**

10 (a) The Division shall be authorized to make and settle Claims on
11 behalf of all departments, divisions, agencies, boards,
12 commissions, offices and organizational units of the City (and
13 to the extent they are included, any Participating Independent
14 Agency) that are covered under a policy from the Miscellaneous
15 Insurance Program, subject to the Division's receipt of all
16 approvals required in Sections 112.307 and 128.313.

17 * * *

18 **Section 4. Establishing a Prospective Date of April 1,**
19 **2024, for the Code Amendments Outlined in this Ordinance to Become**
20 **Effective.** The Code repeals, amendments, and new provisions contained
21 in this Ordinance shall not become effective until April 1, 2024.

22 **Section 5. Severability.** If any section, clause, sentence,
23 or provision of this ordinance or the application of such section,
24 clause, sentence, or provision to any person or bodies or under any
25 circumstances shall be held to be inoperative, invalid, or
26 unconstitutional, the invalidity of such section, clause, sentence,
27 or provision shall not be deemed, held, or taken to affect the
28 validity or constitutionality of any of the remaining parts of this
29 Ordinance, or the application of any of the provisions of this
30 Ordinance to persons, bodies, or in circumstances other than those
31 as to which it or any part thereof shall have been inoperative,

1 invalid, or unconstitutional, and it is intended that this Ordinance
2 shall be construed and applied as if any section, clause, sentence,
3 or provision held inoperative, invalid, or unconstitutional had not
4 been included in this Ordinance.

5 **Section 6. Codification Instructions.** The Codifier and the
6 Office of General Counsel are authorized to make all chapter and
7 division "tables of contents" consistent with the changes set forth
8 herein. Such editorial changes and any others necessary to make the
9 *Ordinance Code* consistent with the intent of this legislation are
10 approved and directed herein, and changes to the *Ordinance Code* shall
11 be made forthwith and when inconsistencies are discovered.

12 **Section 7. Effective Date.** This Ordinance shall become
13 effective upon signature by the Mayor or upon becoming effective
14 without the Mayor's signature.

15
16 Form Approved:

17
18 /s/ Mary E. Staffopoulos

19 Office of General Counsel

20 Legislation Prepared By: Gaby Young

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