

ORDINANCE NO. 25-05

AN ORDINANCE PERTAINING TO THE RISK MANAGEMENT POLICY; AMENDING SECTION 3.60.140 AND REPEALING THE EXISTING SECTION.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

**SECTION ONE:** Section 3.60.140 of the Olathe Municipal Code is hereby amended to read as follows:

**“3.60.140 General Policy on Tort Liability Claims.**

The City recognizes that court decisions continue to develop a clearer understanding of the status of governmental immunity and liability under the Kansas Tort Claims Act. Further, the cost of commercial liability insurance in future years will be related to the loss experience of insurance companies writing such liability insurance. In addition, circumstances may arise in support of payments to persons who may be injured as a result of the use of the City’s services or facilities, notwithstanding the absence of negligence or tort liability. The following, as to the filing, settlement and payment of tort claims, are therefore established:

(A) All tort claims against the City, its officials, employees, agents and volunteers must be filed with the City Clerk in accordance with K.S.A. 12-105b(d).

(B) The City shall not compromise or settle any uninsured claim unless the City Attorney reasonably determines that there is evidence that the City may be legally liable, since such actions tend to precipitate similar claims and there are questions as to the propriety of using public funds for such purposes when there is no public benefit derived or any legal obligation. The City Attorney shall examine each uninsured tort claim filed against the City. If, in the judgment of the City Attorney, the City will probably not be found liable in the event of litigation, it shall be the policy of the City that the claim not be compromised or settled, regardless of the emotional merits of the case. The Risk Manager, with the assistance of the City Attorney, shall initiate claims settlement negotiations upon a determination of probable liability for a claim (regardless of whether such claim is covered by insurance).

(C) The City Council, meeting in executive session, will review proposed settlements of uninsured claims in excess of ~~fifty-one~~ hundred thousand dollars (~~\$50,000.00~~\$100,000.00). It is

**ATTACHMENT A**

recognized that the cost of legal defense constitutes a substantial share of the cost of insurance premiums. However, the discouragement of nonmeritorious claims and the development of a body of case law interpreting the Tort Claims Act is of long-term importance, to this City and to other Kansas local governments.

(D) If the City Manager determines upon receiving the advice of the City Attorney that it is in the best interests of the City to settle an uninsured claim, the City Manager is then empowered to negotiate a final uninsured claim settlement up to a maximum of ~~fifty-one hundred~~ thousand dollars (~~\$50,000.00~~\$100,000.00). The City Council will approve or disapprove uninsured claim settlements in excess of ~~fifty-one hundred~~ thousand dollars (~~\$50,000.00~~\$100,000.00).”

**SECTION TWO:** Existing Section 3.60.140 is hereby repealed.

**SECTION THREE:** This Ordinance shall take effect and be in force from and after its passage and publication as provided by law.

**PASSED** by the Governing Body this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

**SIGNED** by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

(SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

Publish one time and return one Proof of Publication to the City Clerk and one to the City Attorney.