

ORDINANCE NO. 7933-23

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 2, ADMINISTRATION, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE XXXVI. ADMINISTRATION OF SELF-INSURANCE FUNDS, DIVISION 1. AUTOMOBILE SELF-INSURANCE FUND, SECTION 2-728, UNINSURED AND UNDERINSURED MOTORIST CLAIMS; DIVISION 3. RULES APPLICABLE TO BOTH FUNDS, SECTION 2-749, PAYMENT OF MONEY IN SETTLEMENT.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Newport News, Virginia:

That Chapter 2, Administration, of the Code of the City of Newport News, Virginia, Article XXXVI. Administration of self-insurance funds, Division 1. Automobile Self-Insurance Fund, Section 2-728, Uninsured and underinsured motorist claims; Division 3. Rules applicable to both funds, Section 2-749, Payment of money in settlement, be, and the same hereby is, amended and reordained as follows:

CHAPTER 2

ADMINISTRATION

ARTICLE XXXVI. ADMINISTRATION OF SELF-INSURANCE FUNDS

DIVISION 1. AUTOMOBILE SELF-INSURANCE FUND

Sec. 2-728. Uninsured and underinsured motorist claims.

- (a) To the extent that they relate to the ownership, maintenance, use or operation of motor vehicles owned by the city, the city will pay from the automobile self-insurance fund within the limits described by section 2-728(c) such sums as its officer, employee or volunteer is legally entitled to recover as damages from the owner or operator of an uninsured or underinsured motor vehicle, as those terms are defined by Section 38.2-2206 of the Code of Virginia.
- (b) The city will pay from the automobile self-insurance fund within the limits described by section 2-728(c) such sums as any person who occupies a motor vehicle owned by the city as a guest is legally entitled to recover as damages from the owner or operator of an uninsured or underinsured motor vehicle, as those terms are defined by Section 38.2-2206 of the Code of Virginia, provided that such person occupies the vehicle with the express or implied consent of an officer, employee or volunteer of the city, and provided further that the giving of such consent has first been authorized.

- (c) The amount required to be paid pursuant to section 2-728(a) and section 2-728(b) shall not exceed the minimum financial requirements established by Section 46.2-472 of the Code of Virginia. The city acknowledges that the foregoing amount is not equal to the amount of protection afforded under section 2-727, and it hereby expressly rejects limits of uninsured or underinsured coverage in any amount greater than the minimum financial requirements established by Section 46.2-472 of the Code of Virginia, all pursuant to Section 38.2-2206 of the Code of Virginia. Payment of such amounts shall be made only for the excess over all other valid and collectible insurance providing the same protection (i.e. protection which is available to a person otherwise entitled to assert a claim to such protection by virtue of section 2-728(a) and section 2-728(b)). The foregoing limit applies regardless of the number of (1) persons who are entitled to protection by the provisions hereof; (2) persons who sustain bodily injury, death or property damage; (3) claims made or suits brought on account of bodily injury, death or property damage; or (4) motor vehicles to which the provisions hereof apply.
- (d) The amount required to be paid pursuant to sections 2-728(a) and 2-728(b) shall be reduced by the amount of any workers' compensation benefits which have been paid.
- (e) The city will not pay amounts that a person protected under section 2-728(a) and section 2-728(b) is legally entitled to recover by reason of a settlement unless the city has first consented to the settlement in writing.
- (f) The city elects to decrease its underinsured motorist coverage by receiving a credit for any bodily injury and/or property damage liability coverage that is applied to pay the damages of its officer, employee, volunteer, or guest.
- (g) Claims between or among fellow officers, employees or volunteers are expressly excluded from the provisions hereof.

DIVISION 3. RULES APPLICABLE TO BOTH FUNDS

Sec. 2-749. Payment of money in settlement.

The power of city council to authorize payment of money in settlement of legal disputes is hereby delegated as follows:

- (1) The risk manager and the director of finance shall have discretion to authorize payments of fifty thousand dollars (\$50,000.00) or less in settlement of liability claims in cases in which there is no genuine dispute of liability.
- (2) Pursuant to section 10.03.D. of the City Charter, the city attorney shall have discretion to settle liability claims of any kind within the limitation of funds appropriated for such settlements. The city attorney shall consult with city council prior to any settlement in excess of two hundred thousand dollars (\$200,000.00).
- (3) The risk management committee shall have discretion to authorize the city attorney to authorize payments of four hundred thousand dollars (\$400,000.00) or less in settlement of liability claims of any kind.

- (4) The city retains the right to make such investigation and settlement of claims and suits as it deems expedient, even in cases where private counsel has been retained.
- (5) All monetary payments authorized as herein provided from the self-insurance funds will be made by the risk manager or the director of finance.

PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS ON SEPTEMBER 12, 2023

Mabel Washington Jenkins, MMC
City Clerk

Phillip D. Jones
Mayor

A true copy, teste:

City Clerk