

City Commission Policy 200

Claims Settlement Policy

DEPARTMENT: Treasurer- Clerk

DATE ADOPTED: October 1, 1986

DATE OF LAST REVISION: January 27, 2016

200.01 **AUTHORITY:**
This policy adopted by the Tallahassee City Commission on October 1, 1986 and becomes effective immediately upon such adoption.

200.02 **PURPOSE:**
This policy, and the procedures implemented to accomplish its objective, shall be applicable to all third-party claims brought against the City covered under the self- insured automobile and general liability program established by City Commission Policy 214.

200.03 **STATEMENT OF POLICY:**
It is the policy of the City of Tallahassee to promptly respond to and investigate all claims for personal injury and/or property damages filed as third-party actions against the City. The City, through its Risk Management Office, shall implement a claims administration process that resolves each claim by payment of fair and equitable compensation for those claims for which the City is determined to be legally liable and by denial and defense of those without merit and liability.

200.04 **PROCEDURES:**
1. All claims filed against the City shall be reported initially to the City Risk Management Office. As prescribed and defined within this policy, a full and complete investigation shall be made and handled as appropriate including negotiating and settling all claims for which the City is legally liable.

The Risk Management Office shall make final determinations as to the merits of each claim. If the investigation fails to support the claims or allegations of negligence of the City, the claimant will be notified of the denial. Should litigation ensue, the City Attorney shall coordinate and defend the City's position up to and including civil trial.

All claims that are found to be meritorious shall be negotiated and settlement made as authorized by this policy. Claims settlement limits are established by this policy to define the Levels of authority for settlement.

Property damage claims shall be adjusted on an actual cash value basis (replacement cost less depreciation) and compensation shall not exceed the fair market value of the property. Only direct damages arising from the loss will be considered and not those caused by failure to clean up or protect from further damage. The City will not repair or replace the entire property when only a designated section was damaged and can be reasonably repaired. Unrelated and/or pre-existing damages will not be included. Repairs or other work required by contract, any third party agreement, or Code/Ordinance enforcement not directly part of the actual damage will not be considered.

The City will pay for reasonable food and lodging expenses when a residence is uninhabitable as determined and authorized by the Risk Management Division. Any business income loss will be considered at a net figure (sales less expenses both continuing and non-continuing). Any loss of stock or equipment will be considered at cost or actual cash value. The City will not be responsible for delays due to Code/Ordinance enforcement, contractor performance, disputes between involved parties including landlord-tenant issues, bankruptcy or any other legal issues.

Should an affected party file a claim with their own insurance carrier, any subrogation claim from said carrier would be subject to liability review and evaluation of damages by the City.

2. The City will cover the initial clean-up costs associated with sewer back-ups only under the circumstances authorized in the Underground Utilities' policy. This coverage shall apply to both commercial and residential buildings.

Claims resulting from rising water, flood or storm water surcharge, whether mixed with sewage or not, will not be covered by the City. This lack of coverage shall not restrict or limit Underground Utilities from responding to and sanitizing or treating such affected areas as they deem necessary and appropriate.

200.05 **SETTLEMENT:**

Authority:

A. Liability Claims:

The Risk Management Office shall determine the City's percentage of liability in all claims found to have merit. They shall negotiate and make settlement for all such claims as authorized by this policy.

Level I - The Risk Management Staff is authorized to negotiate and make settlement of all liability claims up to \$50,000 with the review and approval of the City's Risk Manager.

Level II - The Risk Manager is authorized to negotiate and make settlement of all liability claims from \$50,000 to \$100,000 upon review by and consultation with the City Attorney, City Manager, City Treasurer-Clerk, Director of DMA and Director of the department involved in the claim.

Level III - All claims reviewed at Level II which are recommended for settlement in excess of \$100,000 shall be agendaed and brought before the City Commission for final approval and authorization.

B. Workers' Compensation Claims:

The Workers' Compensation Examiner shall determine the compensability of each workers' compensation claim filed. They shall adjust the claim and make any and all payments required and/or deemed necessary in accordance with Florida Statute 440 and applicable case law. If the City and the claimant (employee) decide that a lump sum settlement is in their best interest, such settlement shall proceed as follows:

Level I - The Risk Management staff is authorized to negotiate and make settlement and/or payments on all workers' compensation claims up to \$25,000 with the review and approval of the City's Risk Manager.

Level II - The Risk Management staff is authorized to negotiate and make settlement and/or payments on all workers' compensation claims exceeding \$25,000 upon review by and consultation with the City Treasurer-Clerk, City Attorney, City Manager or their representative(s), the Risk Manager and the Workers' Compensation Examiner.

The authorization levels for Workers' Compensation claims are not required when the proposed settlement has been authorized by the city's excess insurance policy.

200.06 **ADMINISTRATION:**

The City Treasurer-Clerk, through the Risk Management Office, shall be responsible for

administering, updating and revising this policy as required. Any substantial changes, additions or deletions shall be approved by the City Commission. specify the City Department having responsibility for the administration of the policy.

200.07 **SUNSET PROVISION:**

This policy shall be scheduled for sunset review by the City Commission at least once every five years, or pursuant to such other schedule as may subsequently be adopted by the City Commission for general sunset review of City policies.

1. **Sunset Provision, standard:** This policy is also subject to sunset review by the City Commission no later than five (5) years from the date of adoptions. Subsequent reviews by the City Commission are to occur no later than five (5) years from the date of the prior review. Revisions will become effective immediately upon City Commission approval.

200.08 **EFFECTIVE DATE:**

This policy becomes effective immediately upon adoption by the City Commission

REVISIONS:

July 17, 1991
December 7, 1994
May 24, 1995
February 24, 2010
January 27, 2016