

(Published in the Topeka Metro News February 27, 2017)

ORDINANCE NO. 20055

AN ORDINANCE introduced by Interim City Manager Douglas Gerber, concerning workers' compensation, amending City of Topeka Code § 2.140.150 and repealing said original section.

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

Section 1. That section 2.140.150, Claims for compensation – Service of claims – Defense of fund, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Claims for compensation – Service of claims – Defense of fund.

(a) All claims under this article against any city department for claims arising on and after January 1, 1976, shall be made against the city workers compensation self-insurance fund. Workers compensation claims shall be served upon the city risk manager in his or her capacity as administrator of the city workers compensation self-insurance fund in the manner provided for claims against other employers under the Workers Compensation Act (K.S.A. 44-501 et seq., 44-5a01 et seq.). ~~The city attorney's office shall represent and defend the city workers compensation self-insurance fund in all proceedings under the city workers compensation self-insurance fund, but any legal expenses incurred shall be paid from the city workers compensation self-insurance fund. In addition, t~~The city risk manager shall be authorized to secure outside counsel to defend any claim against the city workers compensation self-insurance fund whenever the city attorney is unable to provide in-house counsel.

~~Neither this section nor any other section of the code shall authorize the city attorney or any other officer or employee of the city to employ outside counsel without the consent of the city council unless such outside counsel resides in the city or has~~

30 ~~operated its principal place of business within the city for a period not less than one year~~
31 ~~prior to employment by the city.~~

32 (b) The city risk manager shall investigate or cause to be investigated each
33 claim against the city workers compensation self-insurance fund. For the purposes of
34 such investigations, the risk manager is authorized to obtain expert advice regarding the
35 injuries, occupational diseases, disabilities and damages involved in such claims. If,
36 based upon such investigation and any other available information, the city risk
37 manager finds that there is no material dispute as to any issue involved in a workers
38 compensation claim, that the claim is valid and that the claim should be settled by
39 agreement, the manager may proceed to enter into such an agreement with the
40 claimant, for the city workers compensation self-insurance fund, for any settlement not
41 in excess of \$10,000. For any workers compensation settlement amounts in excess of
42 \$10,000, the city risk manager shall obtain the approval of the ~~city council~~governing
43 body, and any settlement made without ~~city council~~governing body approval shall be
44 invalid. Any such agreement may provide for lump sum settlements subject to approval
45 by the city risk manager and all such workers compensation agreements shall be filed in
46 the office of such director for approval as provided in K.S.A. 44-527. All other claims for
47 workers compensation against such funds shall be paid in accordance with the Workers
48 Compensation Act (K.S.A. 44-501 et seq., 44-5a01 et seq.) pursuant to awards or
49 orders of the workers compensation director or a court.

50 (c) The city risk manager shall encumber (reserve) funds sufficient to meet
51 anticipated expenses for workers compensation claims expected to exceed \$1,000 in
52 accordance with the Workers Compensation Act (K.S.A. 44-501 et seq., 44-5a01 et
53 seq.) and experience data.

Section 2. That original § 2.140.150 of The Code of the City of Topeka, Kansas, is hereby specifically repealed.

Section 3. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

Section 4. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 5. Should any section, clause or phrase of this ordinance be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

PASSED AND APPROVED by the Governing Body on February 21, 2017.

CITY OF TOPEKA, KANSAS

Larry E. Wolgast, Mayor

ATTEST:

Brenda Younger, City Clerk